

ATTORNEY GENERAL'S  
COMMISSION ON RACIAL, ETHNIC, RELIGIOUS & MINORITY VIOLENCE  
MINUTES  
PUBLIC HEARING  
OCTOBER 7, 1985  
SAN FRANCISCO, CALIFORNIA

Msgr. William J. Barry, Commission Chairman, opened the hearing at approximately 10:00 a.m. Commission members present: Msgr. William J. Barry, and Judge Armando Rodriguez. Staff present: Marty Mercado, Commission Coordinator; Alisa Tanobbe, Student Assistant, S.F. Civil Rights Unit; Dolores Hernandez, Secretary.

Chairman Barry welcomed the public to the hearing, and gave a brief background on the Commission. The public hearing was convened by the Legislative Subcommittee of the Commission to gather information and take testimony with respect to the current status of legislation affecting the racial, ethnic, religious and minority violence situation in California and to inquire whether or not better and stronger remedies, civil and criminal, should be instituted in order to combat this type of violence.

Chairman Barry asked Commissioner Armando Rodriguez to introduce himself, and it was noted that Commissioner Diane Yu, Chairperson of the the Legislative subcommittee, was delayed, but was enroute to the hearing.

Japanese American Citizens League - Ron Wakabayashi

"Thank you very much. I know that the focus of the discussion is on law enforcement but I would like to deal with a different issue. We have submitted a report in this regard (see attachment A). We are looking at an Asian community that has grown 700% in 20 years. The California figures are interesting because we have 3% of that population. There are statistics that say that 40% of the immigration to the United States is from Asian countries. Of that 40%, 35% declare an interest to reside in the state of California. This is why it is projected that the Asian population in California will comprise, by the year 2050, a population equal to the percentage Hispanics currently comprise. With that kind of population of new comers there are certain dynamics that operate.

"We would like to request an investigation of preventative aspects. Funding is needed for transitional services for new comers. They are going to have certain habits and live in areas that will give them a greater exposure to acts of violence. The Japanese American community will perhaps be a bit different. We are 72% American born and raised. If you look at the statistics, at the number of incidents that involve people who are upset over the trade conflict with Japan, it is the immigrants that end up being attacked. The Japanese-Americans are perhaps a bit more street-wise and avoid some of the conflicts. This is not to say that there is not anti-Japanese sentiment. It is just that the Japanese Americans are more able to recognize that sentiment since they are Americans and know the situation and are able to avoid the conflicts. The concern is for the immigrant communities that have different psychological processes. It is necessary to make these immigrants more street-wise through transitional centers where they could be made aware of the situation and give them the ability that Japanese Americans have shown in avoiding conflict."

"Another recommendation is an old concept that was first introduced in the State Legislature in 1972; that is the establishment of an Asian American Commission. It was not adopted at that time, but with the statistics I have introduced it is clear that the time is now. Also, the state could benefit from a permanent body that could give feedback from the Asian community to the state. The Asian community is very diverse. It has equally diverse needs. While we are the state with the largest Asian population we do not have a body of this sort while the states of Washington, Michigan, and Illinois do. I do not want my remarks to be taken as if I am asking for something special for Asians at the expense of other minority communities. But I am specifically addressing the Asian community at this time, not the exclusion of any other group."

Commissioner Yu asked Mr. Wakabayashi if he had had a chance to look at current legislation and if so how adequate he felt it was. Wakabayashi responded that basically the laws are adequate. He emphasized, however, that this is because the Japanese constituency he works with has been able to avoid being victims because most are American born and are vigilant against attacks and so have been able to escape conflict. The situation is different for immigrants, he noted, and new laws may not be exactly what they need. New comers will not understand those laws and don't come with the same consciousness of constitutional rights American born Asians have. He said we need programs like transitional centers to help new comers understand.

Commissioner Rodriguez asked what would be the thrust of the Commission for Asians that Mr. Wakabayashi proposes. Wakabayashi stated that it would deal with the social consequences of the large Asian influx. So that you have members from all Asian communities, he said, emerging communities must be represented. He offered as an example of these consequences the phenomenon in the Asian community in America, where the wife enters the workplace, when in the old country she did not work. This creates a power struggle in the family and is an issue that has not been looked at as a source of social discord and immigrant Asian well-being. While this is not the same thing we are dealing with here, an ongoing commission would be able to deal with this. This Commission could help save lives and many other traumas suffered in the Asian community.

Commissioner Yu asked if his organization, or states that have programs like he suggests, have had any success in educating newcomers or making the transition easier. Wakabayashi responded that through the life experience of those that are second, third and fourth generation there is a great deal of information that is transferable to the immigrant. There is an experience of what it's like to have an Asian face in this society and the consequences of that. He noted that the experience of newcomers is different.

Commissioner Yu asked if he had any particular recommendations about what to do with those committing violence against these persons. Wakabayashi said that, of course, he wants punishment for the perpetrators of violent crimes but there needs to be something done about more subtle types of violence as well. He relayed a story of going to the Zoo with his son who was

subsequently told by a white youth that "this sand box is for white kids only". While his son is as yet too young to understand this, he stated that the day is soon approaching when he will, and this kind of violence must be dealt with although it is not physical violence. He said that there must be more than a focus on law enforcement. His interest is to look at school curriculum as a means of dealing with these problems. Wakabayashi added that the media is also a problem that must be dealt with since they build a certain caricature that engenders stereotypes and acted upon even by children as evident by the incident at the Zoo.

Commissioner Yu thanked Mr. Wakabayashi and called up the next speaker.

San Francisco Police Department Mental Health Unit - Forrest Fulton

My name is Officer Forrest Fulton and I am with the San Francisco Police Department. I feel the timing of this presentation is very good. Especially after the last speaker I feel myself agreeing with a lot of the things that he said. My unit is the S.F.P.D. Mental Health Unit and we are a very different unit as law enforcement units go. If I can give you a little idea of what we do and how different we are and how we fit into some of the pictures of enforcement. We are a unit of the S.F.P.D. comprised of officer's from the S.F.P.D. We are located at the S.F. General Hospital adjacent to the Psychiatric Ward. We have a fairly long history as far as law enforcement units go.

"We have 30 years of service as a specialized unit which is a pretty innovative thing. It consists of two police officers and one ambulance steward, three people from the city of S.F. We have different duties and responsibilities that cover a myriad of things. Law enforcement people pick and choose you when they need you; kind of like a psychiatric fire department responding to emergencies as they come up.

"What we do specifically in the police department, is we are involved in voluntary and involuntary hospitalization of people who are in psychiatric crisis. Law enforcement officers are empowered to do this, along with some officers from mental health departments, under emergency circumstances under the Welfare and Institution Code provisions of the State of California. However, there are very few specialized units that do this. We are one of those specialized units.

"One of our other responsibilities is to evaluate mentally disturbed individuals. In other words we are called on to deal with people with bizarre behavior. People ask if they are covered under those emergency circumstances. We basically make those decisions for the interest of public safety. Not only do we do the ground work there, we are also involved in the training and teaching in the S.F.P.D. on how to interact with mentally disturbed individuals on an emergency crisis. We instruct the SFPD and also teach other agencies in the community. Some of those agencies are mental health workers themselves in dangerous situations. Therefore, some of the items are concerned with the mental health worker's own physical safety and the safety of their clients.

"We teach community mental health boards some of the issues of police service to their community and we teach neighborhood groups who are involved in neighborhood disputes and issues around some things like halfway houses, hospitalization, street people, homeless, especially as they tie into people who are disabled by mental illness. We coordinate special support from outside agencies like the secret service, FBI, immigration service, parole, probation and state police. These agencies are not prepared to deal with people with mental illness so they become befuddled very easily by seeing someone acting strange and in a bizarre manner. Some times they need some sort of specialized support and it comes from us. Here in S.F. you find a lot of agencies befuddled by somebody in mental crisis. They don't exactly fit any particular agency; the basic response is to call the police. So we are the catch all of those kinds of clients.

"We also do special coordination with mental health units and systems outside of our own community. The state mental health units and systems deal with people who are runaways or walk-aways from mental health systems. We coordinate with the County Conservator's Office, community mental health advisory boards, and patient rights groups.

"We also provide protection for dignitaries. For example, when the Queen of England was in S.F., it created problems because of potential violence between groups of Irish Americans. We find in a lot of situations the people who are bizarre and outlandish or labeled as mentally ill, tend to be focused on by television cameras; people force and shove them towards the crowd. People's mental illnesses are thus exploited. Now, a lot of people aren't mentally ill. We are faced with the question of what is criminal behavior, what is unacceptable behavior, what is mental illness? That is one of the things we try to do as an advocacy and a preventive kind of measure so that people are not abused.

"Dignitary protection, not only with the secret service, but with the State department for places like embassies is a necessity. If you think of some of the embassies we have in S.F., ideas of racial hatred and the other things that go along with those embassies, one can see the mental illness that goes into those letters venting hatred against a particular minority group or nationality. We give testimony for court certification of persons mentally disabled and unable to care for themselves. We do record management. We collect anecdotal information on people who are problems.

"What the police department is dealing with in S.F. is seen through a survey of telephone calls that ask dispatches for service. We also have a radio code "800" for mentally disturbed people. We also count other calls so we have discovered other information on the elderly that are senile and other groups. There are approximately 2,000 hospitalizations per year of mentally disturbed individuals. These are emergency responses we receive that need service immediately. These are often racial and ethnic minorities that often have problems finding service. The people that are economically deprived don't have access to psychologists like the more wealthy class, thus the minority community is usually found in a crisis situation in regard to mental health care that is too late in coming.

"People rotate through mental illness, it is not permanent. These people are unable to find social services to help them and they are unable to assert their rights. If I can give you some opinions. This unit has been in place for 30 years. It has been found that this small unit can serve many populations with very successful results with a minimum amount of officers. We want to blend advocacy skills with the patrol officer duties we also perform. We knock on the door and check on people. Since we are a line unit we can help other officers more easily by cutting through a lot of bureaucratic red tape since its just one line officer providing service to another line officer in the field."

Commissioner Yu asked about statistics regarding hate violence by mentally ill people against others. Officer Fulton responded that when they get a report of hate mail the first step is to decide if it is a harmless prank or if someone is serious about acting upon that hate. But who is to decide which is which? If that person is mentally ill, is that a cry for help? It probably is and we should help him deal with his mental crisis. These people need treatment and if these persons are a danger they should be monitored and that is what they do.

Commissioner Yu asked if this unit was unique in regards to other areas in California. Officer Fulton stated that he found out in an informal phone survey that there are 15 to 20 throughout the United States. In California, Los Angeles has a large unit, but most places have one that is very small and not very effective. In Los Angeles there are 12 officers which function as administrators and then give information to line officers. In New York it is combined with the S.W.A.T. team and has 500 members. But by and large each department functions differently. He said that in San Jose there is one officer assigned.

Commissioner Rodriguez inquired about their budget for this year and what kind of specialized training a person gets to enter this unit. Officer Fulton said that they have a "shoe string" budget that is quite small, but noted that since they are located in the General Hospital they are very effective.

Commissioner Yu suggested to Officer Fulton that if he wished to submit a written statement it would be included in the Committee's report. He stated that he would do so, particularly in light of the fact that officers only receive two hours of training on how to deal with mentally disturbed individuals, while last year they responded to 19,000 calls relating to mentally disturbed patients. He said these are also situations where officers are often hurt, perhaps due to the small amount of training they receive in the Academy.

Commissioner Yu thanked him for his comments.

San Jose Police Department - Sgt. Daniel Ortega & Lt. Walter Adkins

"Good morning my name is Sgt. Dan Ortega, I am with the San Jose Police Department. I would like to take a few minutes to first of all thank you for inviting us, and to assure you that the S.J.P.D., Walt and I, have personally been involved with the Task Force addressing racial, ethnic,

religious, and minority violence. Our Department has been very supportive of the work that is being done. In fact, we are one of the agencies that were involved in a 4-month study between June and September of this year. Lt. Adkins will have the results of that study, and he will also address how the S.J.P.D. currently addresses issues of racial, minority, and religious violence.

"I would like to address very quickly and to the point the issue of the effectiveness and sufficiency of existing legislation relating to violence and bigotry and perhaps a few suggestions as a law enforcement officer.

"First of all, the question regarding the Ralph Civil Rights Act of 1976, you will be hard pressed to find any law enforcement officer that has even heard of the law. The Ralph Civil Rights Act is not being used frequently at all because there is nothing in the statutes that really addresses that particular issue. As far as criminal sanctions there are none. However, there are a lot of criminal law statutes already that address the things that occur relating to racial, ethnic, or religious violence. My suggestion would be to add to these existing laws. For example, Section 594 of the Penal Code deals with malicious mischief or vandalism. For many years vandalism was seen only as a misdemeanor crime. In recent years there has been a section added making vandalism which occurs in excess of \$1,000 worth of damage a felony.

"The suggestion would be to include another special circumstance in the area of vandalism which would make it a felony if it were over \$1,000 and/or if it could be shown it was racially, ethnically, or religiously motivated. That type of statute, or that type of inclusion could be included in any of the criminal statutes that pertain to crimes of racial, ethnic, or religious violence whatever crime it may be. Assault and battery is a misdemeanor; there are special circumstances that make it a felony. We could incorporate racially, ethnically, religiously motivated assault and battery into the felony clause.

"We would suggest that these special circumstances be looked at very very critically at time of sentencing by the courts. From a law enforcement standpoint, I think it would also enhance the involvement of law enforcement in enforcement of these laws in that it would already be something that the police officers are accustomed to enforcing.

"In the study that our department was involved in, we had an order put out to our officers in which these excess 8040 forms had to be filled out by the officers if, when they were called to investigate a crime there appeared to be racial, ethnic, or religious motivation, and what that entailed is another piece of paper that the police officers had to fill out. I feel that by including special clauses in existing laws you are not asking law enforcement officers per se to just fill out another form, which I am sure any profession has too many forms to fill out already, it would be included in the existing forms. I am saying that there are many laws on the books in our State already which address issues that we are discussing here and my feeling is that we need to have those laws extended with different special circumstances, to include these issues that we are discussing."

"I am Walt Adkins. I am area commander in the Uniform Division of the S.J.P.D. responsible for direct supervision of the majority of our forces in the field on a given shift. Dan mentioned we had a chance to get in on the ground floor of this program back in 1982 during Governor Brown's Administration. He formed the Task Force and had a series of public hearings throughout the State of California. We attended several of those hearings. We later had an opportunity to sit down and assist in establishing some working definitions, some criteria, and some process for reporting racially, ethnically, and religious violent crimes to facilitate the various agencies' reports to Sacramento. We have spoken with personnel in our resource division and we think we were very helpful in assisting with that format that we are referring to now.

"What I think is important and what I want to contribute is the fact that the organization has to be sensitive to these sorts of events. I think that has been one of the weaknesses in the past with regards to the agency taking a very serious look at these sorts of events when they happen. We know that a few years ago we had serious matters of crimes here in Marin County and apparently it was such a low priority that the chief executive did not know that it had happened during a shift and he was embarrassed to find out the next morning when the media arrived. One of the things that we have done to raise the status of these kinds of events so that the police officers are a little more perceptive, is to incorporate that into our policy. Dan has a copy of our memorandum that the Chief has presented to us and it is part of our operating policy as to how we approach these types of issues.

"During the study that we have been involved in, we have had nine cases that we have been able to identify that have been racially, religiously, or ethnically motivated. We have shipped those to Sacramento and they have done with them what they will, but we are tracking them nonetheless. More importantly, they are getting the full status of an investigation.

Let me give you an example of an occurrence that happened a week ago on my shift. A fellow had his car, a very fancy foreign made one, scratched and spray painted with the letters KKK. Normally, unless there is a suspect, that kind of event would sometimes get reported and investigated over the telephone, a police report would be filled out and if there is no suspect to be contacted, some times we wouldn't even send a police officer. Because of the sensitivity that we are trying to get organization-wide, we not only thoroughly investigate those kinds of events but, that is one of the statistics that we forwarded to Sacramento.

So, I am encouraging the Commission, in addition to looking at and seeking additional legislation, I am encouraging you to persuade sheriff's offices, and all the police agencies in the State to upgrade those kinds of events to the level of investigations. They are terrifying even though they may fall under the classification of a misdemeanor under the Penal Code. They certainly have felony applications in terms of terror and hardships to the people who are victimized.

Commissioner Yu asked if both Mr. Ortega and Mr. Adkins agreed that the best way to extend existing laws is to make felonies of certain things that are

currently misdemeanors if they have racial, ethnic or religious bias as their motivation. Lt. Adkins answered that they would like the statutes to be upgraded in such a manner.

Commissioner Yu asked if they see any problems with line officers trying to make a determination of whether there is that intent. Lt. Adkins responded that they have a copy of the criteria, and there is no doubt that the District Attorney would be challenged by that, and there may not be a lot of prosecutable cases. However, where, for example, there is a cross burning or there is some violence that you can directly attribute to those issues, then they would like to see that as a felony.

Commissioner Yu stated that they have heard from other police officers who agree that these extra forms would discourage rather than encourage reporting. She said the Commission is very anxious to find ways to strengthen these laws without causing such an onerous burden that the police officers are simply going to refuse to cooperate either consciously or unconsciously.

Commissioner Rodriguez said the suggestion that special language go into existing laws is a good one, because it has been done in other laws to upgrade them and it doesn't take major changes.

Sgt. Ortega said that there are special circumstances which incorporate into the crime and it can have an effect on sentencing, and that is his suggestion. He said there is a need for that had it can be done through legislation without creating a whole new paper process.

Commissioner Barry asked if they could expand on the examples of law that might have what would be the primary concept. Lt. Adkins said that certainly malicious property damage, which is covered in Section 594 of the Penal Code, that basically is a misdemeanor unless the damage is \$1,000 or more, which changes it from a misdemeanor to a felony. That same concept applies if it is motivated by bigotry because sometimes spray painting swastikas is only about \$100 worth of damage, but the injury to the person is quite a bit more than that.

Sgt. Ortega said there are examples of those types of things incorporated in laws such as grand theft. Grand theft is a felony and theft that involves anything of value of \$400 or more. There is already precedent in incorporating special circumstances into existing laws.

Lt. Adkins said in consideration to legislative changes that if the Attorney General could extend this kind of program to include all agencies in the State that would automatically heighten and sensitize police officers at every level as to what their responsibilities are regardless of the laws.

Sgt. Ortega said there is something in recent history that has come about, and it has been a long time in coming, which could also be expanded to address the particular issues we are discussing - that is, victims of violent crimes. He said victims of violent crimes now all do have access to assistance, and if it were expanded to victims of racial, ethnic, or religious crimes it would enhance what we are trying to accomplish.



Lt. Adkins said they also wanted to support the comments by Officer Fulton regarding increasing formal training in mental health.

Commissioner Yu asked if there might be someone from their office who would be willing to work with the commission to draft recommendations to incorporate the suggestions they made. Sgt. Ortega said they would be happy to volunteer.

Commissioner Yu said they did not want to make recommendations which haven't passed an initial review from officers who will have to carry this out.

#### Asian Law Caucus -- Michael Wong

Good morning members of the commission my name is Mike Wong. I am the managing attorney for the Asian Law Caucus, a non-profit community based law office in S.F. and Oakland. Although our principal areas of legal work include housing, employment, labor, and immigration, the question of violence against Asians in particular and violence against any other minority group is of paramount concern to us. We have been involved in some local and statewide activities examining the recent upsurge in racial violence and particularly, we have worked extensively with the different Southeast Asian communities: Vietnamese, Cambodian, and Laotian. These groups have more recently become targets of this concerted violence and harassment. A lot of our comments today are based on our experience and a reflection of a lot of work we have done with respect to violence based on ethnicity, national origin or race. We think our comments are also equally applicable to violence on religious grounds and those based upon sexual orientation as well.

The two main points we want to address ourselves to today is whether the Ralph Act has been effective in dealing with violence against minority groups and what changes might be made to implement a fuller range of protection. Our opinion generally of the Ralph Act is that it is all dressed up as a good idea, but it has hardly been used at all. It is our understanding that even though the Act is close to 10 years old, the first suit based on the Ralph Act has only been filed last year by the Department of Fair Employment and Housing. This somewhat gives us an indication of how often the Act is used. I think the testimony given by the San Jose Police Department also backs the same contention, but let's not make the mistake that inactivity under the Act implies that the issue of arbitrated violence is not a pressing fact; if anything, incidents of racially motivated and ethnically motivated violence is clearly on the upswing. A review of the headlines in the last two weeks with violence against the Vietnamese fishermen or the current wave of anti-immigrant hysteria backed up by different legislative proposals on federal and state level gives us an indication that a kind of xenophobic trend really does exist that needs to be adjusted in a very concrete and aggressive way.

The Ralph Act in itself is not a solution to racial or arbitrated violence just like the federal Civil Rights Act and Voting Rights Act did not solve the problems of racism in this country. The causes of this type of violence

and harassment, as Ron Wakabayashi for the JACL, clearly stated are much deeper rooted in the fabric of American society. It is part of the socialization process; it has a lot to do with the question of economic justice or federal entitlement questions of employment. Until a lot of these things are actually solved there is really no hope of abolishing racial violence that is being perpetrated against minorities. Legislation like the Civil Rights Act and potentially the Ralph Act can be effective tools in addressing some of the more blatant manifestations of racial violence. These legal remedies really have to be forged to meet base level concerns of those victims of harassment and if that isn't done, then the statutes merely remain something nice to have on the books.

I think whether the Ralph Act is effective or not you may be asking the wrong question. Instead of asking why individuals are not using the Ralph Act, one should ask if the Ralph Act itself really offers anything to victims. For most individuals of racial harassment, the principal concern really is living from day to day. Once an instance of harassment or violence has taken place, it is not simply a question of running down to your neighborhood court and filing a suit or asking for an injunction because a lot of these instances are born from a neighborhood's dynamics, and it is difficult to sue the neighborhood kids because they have spray painted your fence. They also deal with a lot of employment and economic concerns and they are not in the financial position to go down to the courts and get an injunction against violence. This dilemma is worsened when the perpetrators have not been identified and the fear that the particular acts that you take through the legal system are going to cause more retaliation.

I think the experience from particularly the Asian community is that legal schemes are legislation in themselves and do not necessarily bring forth the legal remedies which are initially established. For example, minimum wage laws have been on the books for many years and minimum wage enforcement still remains a major concern in the Asian community. It is not simply the fact that people don't want to be paid minimum wage, it takes a lot for individual community members to actually build up enough support, basically enough courage, to begin to fight back.

Racial violence is similar. You cannot just say here is the legal remedy let's take care of racial violence through the courts. Basically the concerns are that there is not enough protection to members of the community who are actually fighting harassment in a more direct way. I think community members are faced with a number of really important questions. Will it ever make a difference if these types of crimes are reported? What kind of support will people have? Will there be retaliation? Whether individuals like it or not they have to live and work in the communities that they have settled in, unless we are basically forcing people to relocate everytime they are victims of violence. People cannot necessarily in a very easy way afford to burn bridges, that is, immediately draw in outside forces to take care of problems if anything happens either in the work place or in the neighborhood.

This isn't to say that therefore the Ralph Act is of no effectiveness whatsoever. We do have some suggestions, some things that can be done to

strengthen the Ralph Act. However, it has to be placed in the context that the Act itself is not going to cure the problem; it is going to take a much broader effort.

First, presently the Act does not address the main concerns people have when an incident occurs. It is unclear who has jurisdiction. One normally assumes it is the police department; but when the incident is not to the level of an assault or battery, it is shoved in some desk. The role of law enforcement must be clearly defined. All police departments must emulate the responsibility of police departments like the San Jose Police Department and take up the issue of minority violence in a more affirmative way. There must be an integrated program between law enforcement and community leaders to produce a more comprehensive program for educating the public on the problem and that it is of concern to law enforcement agencies.

Second, there needs to be a stronger responsibility by local law enforcement to address the problem at its initial points. One of the questions raised was whether criminal statutes would make it better. This is unclear since experience with criminalizing statutes tells us that this strategy is not always effective. But it may be effective in getting local law enforcement more involved. In smaller communities, it is unlikely that resources will be used to pursue minority violence issues at the present time.

Third, it is necessary on the state level to exercise more vigilance over local law enforcement officials to insure proper attention. resolve the problem but it may unleash a great deal more investigative power. This power is now lacking with the DFEH because they are not set up to investigate the claim the way law enforcement may be able to do. I don't think attorney's fees is going to bring an onslaught of these cases, but it may be useful in providing more incentive for public interest groups and maybe bring more attention to the gravity of the problem.

Our final concern is what the commitment of the Attorney General will be on these issues. Will he take up a program of active investigation? Will he take some responsibility in monitoring on a more continual basis, actually putting some teeth into what can be done with reports? It is my hope that he will. Unless there is an overall framework set up encompassing a role for the clout of the Attorney General to work more closely with local officials in education and enforcement, little will change.

Commissioner Rodriguez asked what role Mr. Wong had in mind for the Attorney General to play in education of the problem. Mr. Wong responded that the main effort would begin with an aggressive program by the Attorney General to inform state law enforcement that civil rights statutes do exist in this state and then provide that as a matter of public policy, it is a commitment in this state not to tolerate racial violence. The problems have been taken up at the grass roots level. It would be much more effective if these grass roots efforts were monitored for information by the Attorney General's office for analysis and distribution to other concerned organizations.

Commissioner Yu asked if he had any suggestions on how to deal with the problem of language and local officials inability to speak the particular language, and the necessity of better skills and cultural information.

Mr. Wong stated that here again the Attorney General should play a role in setting up task force personnel that have the capacity to go into these communities to ease the transition and to make sure that enforcement of civil rights occurs. But this is not enough; cultural and language qualifications should be a component when hiring an investigatory staff.

Commissioner Yu thanked Mr. Wong for his presentation.

#### Mexican American Legal Defense and Educational Fund - Susan Brown

Susan Brown, legal counsel with MALDEF spoke to their concern over alien rights: Many acts against alleged undocumented aliens spill over into acts of discrimination and abuse against United States citizens of Hispanic ancestry. While actions of the Immigration and Naturalization Service and Border Patrol are out of the purview of this Commission, cooperation by local police and sheriff's departments in acts of violence against aliens in conjunction with Federal INS officials is not. She urged this Commission to assert its power to curtail local police involvement in enforcement of Federal immigration laws. Ms. Brown cited some examples of abuses that have come to their attention.

In keeping with the 1979 Attorney General's opinion that local police shall not enforce civil immigration laws, MALDEF asks that this Commission address itself to the issue of local and state law enforcement agencies and their cooperation with federal immigration officers. Further, we ask the Commission to consider how the Simpson bill, if passed, could be implemented without overt discrimination against Hispanics and other minorities.

#### Vietnamese Fishermen Association of America - Chieu Pham

Mr. Chieu Pham, Executive Director of the Vietnamese Fishermen Association of America, discussed the problems of violence encountered by Vietnamese fishermen, and the recent shooting upon a Vietnamese fishing boat off the coast of Bolinas. He said this incident is a part of a pattern of persecution which has been reoccurring since 1981, when two Vietnamese fishermen and one American were killed in Texas.

Mr. Cham said it is time to look at this pattern of violence and deal with the problem before it escalates into large scale conflict. He proposed two courses of action to resolve these problems. 1) Bilingual/bicultural personnel should be hired in the Coast Guard, Department of Fish and Game, and all other relevant local authorities to act as a linguistic and cultural bridge between their agencies, the Vietnamese fishermen and American fishermen. He said it is essential that there be a presence in these places to ensure that Vietnamese clearly understand fishing regulations as well as their rights as commercial fishermen.

Secondly, he proposed the establishment of a task force consisting of members of all fishing associations as well as representatives from appropriate government agencies to solve problems as they arise, and intervene before portentiously dangerous situations explode into violent conflict.

Commissioner Yu noted that these concerns may be out of the purview of the Commission's mandate. Ms. Mercado indicated that she would refer their concerns and suggested courses of action to the State Resources Agency for their consideration.

American Jewish Committee - Robert D. Links

Ernest Weiner, introduced himself and Robert Links, Chair of The American Jewish Committee's Asian-Jewish Task Force, who presented a statement on behalf of the American Jewish Committee. Mr. Links said the Asian-Jewish Task Force was established to provide a bridge between the Asian and Jewish communities, and in particular, to respond to the wave of overt, and sometimes violent, anti-Asian prejudice that has surfaced in the past 18 months. Mr. Links said they support the work the Commission is doing and urged that it take all available steps to strengthen the Ralph Civil Rights Act (Civil Code, Section 51.7).

Mr. Links said it is very important for the Commission to recommend the strengthening of this most vital statute. We must demonstrate to the public our collective will -- that our government will not tolerate violence, threats or intimidation that is motivated by racial, ethnic, or religious hatred.

Mr. Links said that the Ralph Civil Rights act needs to be strengthened in several specific ways. He said it is important for the statute to spell out in clear terms which governmental department has enforcement responsibility. He said we also need to appropriate the resources so that responsible officials will have the capacity to act, in addition to the duty to act.

Mr. Links gave some specific provisions that should be added to the statute as follows:

Attorney Fees - addition of a clause that awards attorney fees to a successful party.

Creation of a Fund to Pay Attorney Fees.

Barring counterclaims until the case in chief is resolved.

Calendar Priority - these cases should be granted preference before other cases on the court's docket.

Streamlined Injunction Procedure.

Criminal Penalties Should be Enacted, Including a Provision for Enhanced Sentences.

Enactment of a State Civil Rights Criminal Statute to Parallel the Federal Statute (18 U.S.C. Section 241, et seq).

Establishment of a Statewide "Clearinghouse" to Register Persons Convicted of Hate Crimes.

Mr. Links testimony is attached - see Attachment B.

### Lillian Galedo - Filipinos for Affirmative Action

Ms. Lillian Galedo, Executive Director, Filipinos for Affirmative Action, Inc., gave a presentation discussing recent acts of violence against the Asian community and offered some reasons why the victim finds it difficult to obtain justice such as: Immigrants do not know what their rights are; the system is not accessible; there is little commitment to intervention and investigation; the law requires that the victim file a law suit in order to seek relief. (See Attachment C)

Commissioner Rodriguez asked about Filipino immigration and Ms. Galedo responded that they had been using the figure of 40,000 permanent residents and 100,000 entering per year in terms of students, new immigrants, and other not yet permanent residents.

Commissioner Yu referred to an article in the SF Chronicle that mentioned that the Filipino was the largest minority group among Asians in the State of California. Ms. Galedo said that she had heard projections of one million Filipinos in California by the year 1990. California is one of the states where Filipinos settle.

Commissioner Yu asked what other types of anti-Filipino violence Ms. Galedo's group has come in contact with, besides property damage. She responded that while property damage is a main one, there has been on the job harassment by other employees. One man complained that his supervisor used racial slurs and denigrated his work due to racial bias.

Commissioner Yu asked if Ms. Galedo's group had any ties to other Asian organizations. She answered that her group has been involved in a couple of panels and task forces that indicate that there is a growing consciousness about the problem.

Commissioner Yu thanked Ms. Galedo for her comments.

Commissioner Yu noted that these concerns may be out of the purview of the Commission's mandate. Ms. Mercado indicated that she would refer their concerns and suggested courses of action to the State Resources Agency for their consideration.

American Jewish Committee - Robert D. Links

Ernest Weiner, introduced himself and Robert Links, Chair of The American Jewish Committee's Asian-Jewish Task Force, who presented a statement on behalf of the American Jewish Committee.

He said it is very important for the Commission to recommend the strengthening of this most vital statute. We must demonstrate to the public our collective will -- that our government will not tolerate violence, threats or intimidation that is motivated by racial, ethnic, or religious hatred.

Lillian Galedo - Filipinos for Affirmative Action

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California Association of the Physically Handicapped - Phil Nails

Phil Nails said the California Association of the Physically Handicapped is a statewide organization, about 15 years old, that was initiated in Sacramento to fight for the rights of the handicapped on a legislative capacity. They have had a lobbyist about 12 of those 15 years.

He pointed out the first problem is that there is a split in the disabled community. The split is that some disabled people want to be treated like everyone else. Others expect special rights because of their disability. This creates difficulties in formulating legislation for the disabled community.

Presently, there are involved in a bill of mammoth proportions to amend the Employment and Housing Act to secure employment rights for the disabled. There are many instances that they would not categorize as violence but certainly discrimination. When a person with down syndrome is allowed to work in the stockroom but not out front where "it may hurt business" is not a crime in California. But in terms of violence, there have been a number of enhancement bills for those who perpetrate violence against the handicapped and the elderly. Some of these bills were opposed by the ACLU because they felt they were overly broad. None were able to get out of committee. The hope is that some consensus will emerge on this legislation. He noted part of the problem is that there are 58 counties in California that have 58 district attorneys that go to 58 different grand juries. There is not one unified standard determining what a person is charged with when they commit a certain crime.

Mr. Nails said they support the proposed data collection system and officer training seeking to sensitize law enforcement officers to the different cultures.

Another area of concern is with an expansion of the restitution to the victims. There are two types of disabled: those that are born disabled that require some sort of governmental supervision with a possibility of rehabilitation since they receive aid and physical therapy free of charge; and there are those that are disabled by illness or accident. The latter group does not have the aid the former group does. These people are losing their homes since they lose their income when they become disabled. Whether it was due to a racist violent act or a drunk driver, the person's life is shattered and they need assistance.

They are also concerned with education of the young as to the roots and effects of racism so that we can solve the problem before it begins.

Mr. Nails said the problem with data collection is that since one-third of all disabled Californians live in Los Angeles and LA is not included in the data collection program at the moment, he did not feel that the results will be very representative of the plight of violence-prone disabled persons or for minorities in general.



Commissioner Yu inquired about his thoughts on the Ralph Civil Rights Act. Mr. Nails responded that it has been far from effective. In fact, he stressed, he has never heard of one case being brought in Los Angeles County.

Mr. Nails asked if the commission expects legislation to come from its report. Commissioner Yu explained that the commission will propose a legislative packet to the Attorney General in its report.

Mr. Nails reiterated a concern that the data collection project is omitting large minority populations. Ms. Mercado informed him that at the project's inception it was decided to include only those police departments that desired to accomodate the program to allow the pilot project the most favorable conditions for its success.

Commissioner Yu thanked Mr. Nails for his comments.

Regional Center of the East Bay, Oakland - Dr. Mary Ann Vigilanti

Dr. Mary Ann Vigilanti introduced herself. She said she is a psychologist with the Regional Center in Oakland. She said her particular concern is that the State Department of Developmental Services does not keep a systematic accounting of the number of persons who are handicapped and the pertinent data such as their treatment, their religion, ethnicity, their court dates and outcomes. This is far behind the other states as far as this type of data collection. There is research that indicates that a person who is disabled has the highest chance of being abused. It is a neglected area and the real abuse that is going on merits a systematic accounting.

Commissioner Yu asked if there was any statewide concensus on how to deal with disabled persons and the problem of abuse. Dr. Vigilanti responded that it is difficult because people are not quite sure. Something has to be done on the state level so that services can be rendered within the state itself.

Commissioner Rodriguez asked how many regional centers exist throughout the state. Dr. Vigilanti said there are 21 and they cover the whole state jurisdictionally.

Commissioner Rodriguez asked if she had any suggestions on who should handle the statistical data gathering. Dr. Vigilanti said the Department of Developmental Services would be ideal. Commissioner Yu mentioned, however, that there may be a jurisdictional problem for the commission here; it would be difficult for the commission to suggest alterations in an agency outside of the Department of Justice.

Dr. Vigilanti discussed a problem with district attorneys not even proceeding on these cases. She said they often will not even interview their clients because the reliability of the testimony keeps changing. This is a problem of mental retardation, she added. Commissioner Yu said that working in the court system, she was aware of the tendency to plea bargain the case so as to not open a can of worms with these cases, acknowledging it as a problem that merits consideration.

California Association of Human Rights Organization - James P. McEntee

James McEntee, President of the California Association of Human Rights Organization, discussed some observations of the Ralph Civil Rights Act in his personal dealings in the area and indicated there are very few persons who have heard of the Ralph Act but know little about it. It is not considered significant in combating violence. He noted there are a few who know that the Department of Fair Employment and Housing had some responsibility for its enforcement, but had little confidence in its implementation or enforcement.

McEntee said he feels the work being done by the Attorney General's Office under SB 2080 is an important start, but feels there are too many restrictions on what is reportable and what is not. His feeling is that any action that has any implications or overtones of ethnic, religious, or minority motivation should be reported.

McEntee recommended that the Attorney General's office convene in the very near future a meeting of Human Relations Commissions, special interest groups serving the special needs communities, and law enforcement agencies to discuss and study the Ralph Act and other legislation; and also develop a method of greater cooperation among all the groups which have a special interest in this area.

He said he would encourage some real outreach to the community through radio and TV spots and especially through the newspapers explaining this concern and giving individuals an opportunity to phone in incidents to a centralized number with the understanding that their call would remain confidential.  
(See Attachment <sup>C</sup><sub>D</sub>)

Violence Against Asians Task Force - Frank Chong

Frank Chong gave a background statement on the Violence Against Asians Task Force which was established by Asian Community Mental Health Services in Oakland, in response to the increasing number of violent attacks against Asians in the Bay Area. He said many of the racial incidents have been directed at Southeast Asian Refugees who have been resettled in low-income neighborhoods. The newly arrived refugees are seen as "intruders" and as being responsible for displacing many longtime residents in these neighborhoods. In addition, cultural differences have exacerbated relations with the residents in the neighborhoods they move into.

Chong said, specifically, the Task Force was formed in February of 1975 when Laotians were being harassed at their place of worship. Their temple had been vandalized and the people were very frightened. Chong said many refugees feel helpless and live in fear for their lives.

He said in terms of reporting of incidents, it fluctuates since few could understand their language. It is their belief that the only way to reduce the violence is to establish a group of leaders in the community that have been victims and/or speak the language and can relate to the plight of the refugees.

Chong said the Task Force would like to see this Commission address the problem of language which is at the root of many of the problems. The Oakland Police Department has one bilingual recruit. There is a need to hire and instruct more bilingual officers.

Chong said that the steps that the Task Force has taken in developing a relationship with the district attorney and police departments and getting them involved in the meetings of the Task Force is the way to bridge the gap. He noted they also attempt to keep in contact with the Oakland school board who is trying to coordinate a model demonstration project involving all minority youth. He said they also co-sponsor the Asian Youth Festival. He said that positive steps like these to establish relationships between the arriving immigrants and the more established minorities is beneficial.

In terms of the cost upon the community, Chong said they have found that the collective mental health of the community is at a very low point. Members of the refugee families are living in fear. They are becoming more socially isolated. They are beginning to feel almost vigilant about things. He said these people in some cases have seen where people have flogged them and assaulted them and they are back out on the streets again. They are talking about arming themselves, which they feel is not the right approach, but yet they don't feel that there is any hope to protect their family in these neighborhoods.

Chong said the Task Force recommends supporting groups like facilitation forums in Oakland, community boards in S.F., which are neighborhood conflict resolution models. He said there is great potential to develop a model that would be culturally and realistically appropriate for multi-ethnic communities, and that this is a good model to try and emulate and try to develop.

He said someone had spoken earlier about better outreach to the people who are the victims themselves and that would be really helpful to hear from the victims themselves, and that we should go into the communities and listen to testimony from the victims. He said it is very frightening because it happens that it is more of an exception than a rule that someone hasn't been attacked because of their racial or ethnic background. A better approach would facilitate better communication. Mr. Chong said any resource positions or any types of advisory groups should include refugees themselves as they are the ones who live in the neighborhood and understand the dynamics of what is going on.

Commissioner Rodriguez mentioned that he heard Mr. Chong emphasize the need for language services in terms of getting incidents reported. He asked if these are available in the Bay area to the Southeast Asian people. Mr. Chong responded that as far as he knows there is no Laotian or Cambodian weekly or monthly journal, nor is there a cable television or regular television show that is in their own language in the Bay area.

Mr. Chong said a great help would be to have more bilingual cadets, police service technicians, and dispatchers. The idea of a hotline is something that several speakers have suggested and that would be tremendously helpful. It would be cost effective and it would also allow people to report incidents in their own language.

Commissioner Yu asked if there are sufficient bilingual people available in the community to help staff those hotlines. She stated that one of the problems is the idea of having more law enforcement people coming from these communities is admirable, but it is going to take years to build up the ranks so that they can actually become active in any law enforcement agency. Mr. Chong responded that he felt confident that if they set up the job so that someone can subsist on the wages paid, you would have enough Laotians and Cambodians who have gone through ESL classes and training programs who are sufficiently bilingual to be able to report incidents and take reports as well as do cases. He said the failure of the models and subsidies is that they offer jobs where a person must be on call 24 hours but are only paid minimum wages, and asked how many people in the room would be willing to take that job. He said not too many, but if were set up so that it would be a well-paying job as it deserves to be because it calls for a bilingual language capability, people will apply.

Commissioner Yu asked about going in the other direction and having aggressive English training courses so that it can be a two way street in terms of communication. In this manner the victims themselves will be in a better position to voice their concerns. Mr. Chong responded they have been trying to do this with community education workshops. He said one workshop put on in cooperation with the Oakland Police Department, was held in the Cambodian community as an introduction to the criminal justice system. Seventy people attended, including members of the Black community, who came just to say that not all Blacks are bad. Mr. Chong said he thought forums of that type do a great deal of good.

Commissioner Yu asked Mr. Chong if he agreed with the last four witnesses on the points that one of the reasons for lack of reporting include: (a) the victims fear of reprisal; (b) distrust of the establishment; (c) inaccessibility of the legal system; (d) general ignorance of the law; and (e) lack of a support group to assist in advising people on what remedies would be available. Mr. Chong answered yes. Commissioner Yu thanked Mr. Chong for his remarks and called the next speaker.

#### Legal Center for the Elderly and Disabled - Dario Diaz

Dario Diaz, legal counsel with the Legal Center for the Elderly and Disabled in Sacramento, discussed some general areas of concern. He cited an example of a case where the center is involved, and noted there are still quite a few problems in the area. He said there have been a few cases where Asian people were beaten up by persons who claim that they are taking jobs away. He said they have seen a lot of violence in housing projects, mostly between other minorities and Asians. Diaz said the difficulty in dealing with Asian problems is language, and the existence of the many dialects complicates that problem further; so the problem is bigger than just getting a few generic translators.

Diaz noted that his area of emphasis is with Hispanics, and that most of his work has dealt with police violence and also Hispanic-Black intergroup violence. He said it is a very touchy subject when two minority groups are fighting; its not like when a Nazi blows up a Jewish synagogue where we can all rally around a common ground in disgust. It is a very difficult problem to accept and even a more intense problem to deal with. This has been going on in our ghettos for years and it needs to be dealt with; especially since if someone takes a side it is considered racist.

Diaz said the bulk of their cases emerge from family disputes. He said they have cases where disabled persons are beaten up, and it is often done by family members. He said they have had a case of an eviction based on disability. He noted that a very big problem of elderly and disabled violence is in nursing homes and other such institutions. He said their experience is that few agencies want to deal with this problem.

Another problem Diaz noted had not been discussed is prison violence. He posed an interesting query, as to whether people are learning violence in prison and bringing it out to our communities or vice versa, and asked what is the proximate cause here.

With respect to the law, Diaz asked who has the burden of proof? If it is burden within a reasonable doubt like in criminal law, there are few attorneys that would take the cases since the chances of winning are very difficult. There would probably not be many winners in these situations. He said he is aware of Federal statutes that are effective, but it usually takes three years and this is the reason most people don't get into these very costly actions. He said he also wondered at the cooperation between the federal and state officials in these cases.

Another problem Diaz noted, is with attorney's fees. Unless it is a very good case and the person can pay, he doubts that many attorneys would take a case of violation of the Ralph Act on a contingency fee. He said what is interesting is the possibility of having this done for free if a "practice and pattern" is demonstrated. He asked what about having free legal services in all these cases under the aegis of the Attorney General's Office? Why not do more than put these cases at priority, but put them in a classification, as in eviction procedures, that get on the calender within two weeks instead of two years. This underscores the seriousness of these cases, like San Francisco, that has a tribunal for land owner-tenant conflict, why not establish one for acts under the Ralph Civil Rights Act Section 51.7?

Diaz said he is interested about the policy on minors that commit these types of crimes. Civilly, you can go after their parents. But in the criminal area it is difficult to do much with a fifteen year old that beats up an old Asian man. This is definitely a problem.

On a more general level, Diaz said it is necessary to make these acts felonies. But the constitutionality of making those classifications is difficult as well, and he said the attorneys would turn down the case anyway.

Diaz said that some of his recommendations on the problem of violence generally, is that the police need education on community tensions and the diverse cultures. Very few police are informed in this regard. Language is again, a problem. Teaching police how to act on restraining orders, which to this point are not being enforced, restraining orders are often not implemented or followed. He said one existing program is the police athletic group that brings many minorities together in programs where they can vent out frustrations. We need to get on the road to escaping the rut of racial violence and this is one avenue that has proved successful. He cited a recent case of an elderly hispanic who had been beaten up by two blacks, and the man's son told him that he was going to get three Hispanics to beat up the two blacks. Diaz said he pointed out to him that it's just a spiral of violence where they then will get 4 blacks to beat up the three hispanics and it will continue to spiral until many are injured for one initial act of senseless violence. Teaching the community about what it means to be a scapegoat may help more or less and may expose the hypocrisy in this type of conduct. It is clear that we need new law here.

Diaz said he thinks enforcement is the important thing because if a police officer refused to assess something as racially motivated, as is the case today, even when racial expletives are used, it defeats all the law's purposes. More media exposure is necessary. Talking about it more, instead of just sweeping it under the counter, will establish more awareness. Perhaps it will also instill trust in the minority community that someone is actually concerned; perhaps it will inform mainstream populations that think those problems no longer exist that it's more present today than it has ever been.

Commissioner Yu asked about his organization. Mr. Diaz said that they were based in Sacramento and it is a non-profit organization that takes on as many cases as possible but it is impossible to take many of them.

Commissioner Rodriguez observed that while Mr. Diaz focused on minority group against minority group violence, he said little about intragroup violence by gangs and the like. Mr. Diaz stated that the motivation there is not based on race and ethnicity but it is a problem created by the rut of violence. He said he is bothered by the fact that politicians will not talk about it, since if they take one side the community group of the other side will jump on them so they just by-pass the issue. He said he did not know the answer to this problem but the recognition of the problem and an effort for more awareness of the issue may help in some way. Commissioner Yu thanked him for his remarks.

Asian American Bar Association/Vincent Chin Defense Team - Hoyt Zia

Mr. Zia said that the speakers that have come before have summarized much of what he wanted to say, so he would not repeat the same things. What he would like to emphasize is the importance of sentence enhancements in order to increase the sentences of individuals who commit acts of violence that are racially motivated; anything that can be done to decrease the power of hate groups that have recently attacked Asians in the Bay area. Targeting

those groups gives rise to the idea that while we can't change attitudes overnight, there is an effort to stem the tide of violence by putting those who commit these crimes away for some time. It will no longer be just a misdemeanor. Zia said that personally he thinks this is a societal problem and it is not that easy to change attitudes via legislation. He said education is the most necessary element in this regard. Immigrants need better English classes as well to be able to better communicate. One of the biggest complaints is that Asians are not willing to assimilate and learn the language and the reason is poor ESL classes.

Commissioner Yu asked if he could discuss his involvement with the Asian Americans for Justice. Mr. Zia responded that he is certain that all are familiar with the Vincent Chin case where the anti-Asian feeling in Detroit resulted in his brutal death with a baseball bat. The perpetrators were fined \$3,000 each and put on probation for three years. It just fell through the cracks at the District Attorney's office and a public outcry arose. On a state level nothing could be done. A civil rights action was brought and the two killers were finally sentenced. One was sentenced to 25 years and the other acquitted.

He said his involvement stemmed from his sister's key role in Detroit. She asked him to work in the Bay Area to educate the community and put pressure on the powers that be to see if more assertive action could be motivated. To that extent Asian Americans for Justice was formed. It cut across all communities since people were understandably outraged over the injustice that was done. The group centered their efforts on fund raising because the people in Detroit needed funds for their efforts. It was also at about this time that the high school student in Davis was knifed. Other issues were raised and discussed by the group similar to what this commission does.

Commissioner Rodriguez asked if the group is national. Mr. Zia answered that while they keep ties with other Asian groups, they are strictly a Bay Area group. There has not really been a joint effort to abolish violence per se, only fund raising and educational efforts.

Commissioner Rodriguez asked if there was any dialogue between groups that his organization has initiated. Mr. Zia responded that most dialogue is on the local levels, although it varies. He is chair of the Ethnic Minority Relations Commission of the State Bar and one of their efforts is to open lines of communications between the minority bar associations throughout the State. Its not going to be an overnight process; opening lines of communication itself will be a major accomplishment.

Mr. Zia stated that once the Commission published its report it may help in the various efforts because it would provide some direction in the nebulous subject of racial violence. Commissioner Yu thanked him for his remarks.

Commissioner Yu adjourned the meeting at 4:00 p.m.

# # # #

# **ANTI- ASIAN VIOLENCE**

**A REPORT BY**

**THE JAPANESE AMERICAN CITIZENS LEAGUE**

**NATIONAL HEADQUARTERS  
1765 SUTTER STREET  
SAN FRANCISCO, CALIFORNIA  
(415) 921-JACL**

**OCTOBER 7, 1985**



The environment which has led to the increase in the incidence of discrimination and violence against persons of Asian ancestry has several contributing variables.

- 1) **Population increase over 700% during the past twenty years**  
The 1960 Census showed a population of half a million persons of Asian ancestry, increasing to 1.5 million by 1970, and reaching the 3.5 million level by 1980.
  - a) **The arrival, growth and interaction of new cultures** with American society contains inherent incongruities that require transition, accomodation, and, thoughtful and sensitive, planning and implementation. The absence of such efforts on an appropriate scale make predictable the ascension of tensions in the period of initial cultural interface.
- 2) **Ratio of American born to foreign born is low.** Three out of five Asians in America are newcomers to this country. The characteristics of a newcomer population at entry may contain several elements such as housing patterns, accessible occupations, geographic concentrations, perceptions and self images, which interact in a manner that expands exposure to conflict and violence.
- 3) **Larger macroeconomic influences,** such as the impact of international trade conflicts with a special focus on the Pacific Rim at this point in history. The characterization of the trade friction by various opinion makers in government, business, labor and media on a racial basis may fuel antagonisms against any and all persons of Asian ancestry.
  - a) **The domestic economy of the United States directly** impacts the viewpoint of large segments of our political, corporate and labor communities. In the circumstance of industrial decline in some of our key, traditional industrial sectors, the competition for employment and market share, erupt into antagonistic relations and attitudes.
- 4) **The general perception of persons of Asian ancestry in the public domain** from a myriad of sources through vehicles such as television, movies, and print media strongly tends to portray persons of Asian ancestry repeatedly in narrow bands of caricature, discounting the image of persons of Asian ancestry in the public mind. The absence of significant positive models reinforces damaging invisibility to the Asian in America.
  - a) **Achievements in education, employment and income** by Asian Americans are viewed with envy rather than accomplishment. Even perceptions that would seem to be positive have a detrimental aspect.
- 5) **The cumulative effect of the past century of racial conflict and discrimination** directed toward various Asian groups, both domestically and internationally, has implanted a deeply rooted tradition of anti-Asian sentiment. This unfortunate heritage is foundation for the perpetuation and extension of backward attitudes in the contemporary environment.

The interaction of these five broad factors directly contributing to the dramatic rise of anti-Asian sentiment in the United States over the past several years are discussed in greater detail in this report. The report also includes appendices that provide data and example of the above five points.

The limitations of this report are many. The specific incidence of racial violence is difficult to document for several reasons. There is inconsistency in categorization, identification and reporting of racially motivated action. Perhaps, most significantly, the nature of the at-risk population makes underreporting of incidents likely.

The very concept of Asian American is reflect of our circumstance in this country. We are persons of varied and distinct cultures and histories. What we share is a common perception. We have a physical similarity that causes us to be viewed in a conglomerate manner. The risks of one are also the risks of another.

The Japanese American Citizens League, as an institution founded over 50 years ago for the specific mission to address anti-Asian sentiment, and with an extensive history encountering and addressing various virulent periods of anti-Asian sentiment is deeply concerned by the character of the current episodes in the rise of violence. The concern rests directly with our interests as citizens of this nation, working to actualize the aspirations of the ideals of this nation, as well as our interest as Asian Americans, who are the victims of this backward trend in America. Our intent in providing this discussion is to reinforce the call for immediate attention and intervention in this area of great concern.

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# **THE RISE IN ANTI-ASIAN SENTIMENT**

## **Overview**

The resurgence of anti-Asian sentiment in the United States over the past few years is documented in a growing number of incidents reported in both ethnic community vernacular press and in the mainstream media. The vicious bludgeon murder of Vincent Chin in 1982, in the economically distressed city of Detroit, has been the centerpiece story which has brought much attention to this unfortunate trend. The inventory of incidents and events related to this phenomena that are included in this report are an indication that there is a significant and growing problem.

Discrimination and violence against persons of Asian ancestry in the United States has had an extensive history. Early immigrants were required to endure hardships, not only of social adjustment and social condition, but of racial hatred directed at them. Over 600 pieces of legislation directed against persons of Asian ancestry were enacted between the late 1800's and the early 1900's. Sanctions and prohibitions were imposed, limiting or excluding Asian Americans from citizenship, intermarriage, land ownership, employment and other forms of participation in American life. The intensity of anti-Asian sentiment culminated during World War II. The highest levels of all three branches of the Federal Government acted to exclude persons of Japanese ancestry from their homes on the West Coast and placed over 120,000 persons of Japanese ancestry in inland camps surrounded by barbed wire and guarded by armed military without any charges filed, without any due process of law.

Many barriers excluding Asian Americans from full participation in American society have been reduced. In 1947, the Alien Land Law, prohibiting persons not eligible for citizenship from owning land, was repealed. In 1952, the Japanese American Citizens League achieve a major campaign victory by supporting legislation that made citizenship available to the first generation (Issei) as well as other new immigrant Asians. The 1956 initiative known as Proposition 13, finally removed the Alien Land Law statutes in California. Court challenges, legislative campaigns and direct initiatives were implemented to erode the historical barriers imposed on persons of Asian ancestry in the United States. In 1959, after 21 years in the Congress a Bill providing Hawaii Statehood was finally realized when ethnic population considerations were diminished.

The post war period reflected a gradual improvement in anti-Asian sentiment. The American Chinese, Filipino and Japanese populations served with distinction during the war. In particular, the 100th/442nd Regimental Combat Team, a segregated unit, composed of Japanese Americans, became the most decorated unit in American military history for its size and length of service. The record of the 100th/442nd provided a dramatic

demonstration of the loyalty of Japanese Americans. This record provided a basis to ease the attitudes of many Americans, who raised skepticism about the ability of Asian Americans to assimilate into American society. To a large extent it was this record that facilitated the passage of legislation to make Hawaii the 50th State. There had been considerable opposition in the Congress to admit the territory because of its large Asian population.

U.S. involvement in the Korean War and in Vietnam, continued a history that maintained one Asian country or another as an enemy. The continuation of military encounters in Asia in the Post World War II period, maintained an ongoing focus upon one or another Asian people as an enemy of the United States. The public perception of Asian people as enemies, with all of the vilification accorded enemies, was reinforced over time.

By 1960, the population of Asian Americans in the United States reached a total of a half million, less than 1/2 of 1 percent of the total population. The movement for expansion of civil rights was an item on the national agenda and Asian Americans, both participated and were impacted by this national movement. One effect of the civil rights movement was the expansion and liberalization of immigration quotas to Pacific Rim nations. By 1970, the population of Asian Americans reached 1.5 million, a 300% increase, largely due to greater equity in the allocation of quotas for immigration from Pacific Rim nations and U.S. involvement in Vietnam. The 1980 census records 3.5 million persons of Asian ancestry. The geographic concentration is in the West Coast of the United States, resulting in only part of the country familiar with Asian Americans on a first hand basis. With persons of Asian ancestry accounting for 40% of the immigration to the United, and over one third of these declaring an intent to reside in California, the continued expansion of Asian American communities must be anticipated.

Concurrent with the increase in Asian immigration, the third and fourth generations of Americans of Asian ancestry, particularly in the Chinese and Japanese communities were reaching their majority, a generation impacted by the civil rights and peace movements. A marked interest in ethnic identity and pride characterized this period, reflected in the development of Ethnic Studies Departments in various universities. The early Asian communities were reaching maturity. Educational achievement, per capita income and other measures reflected this growth.

The initial emergence of the economies of Pacific Rim nations became visible during this same period. Increase in trade relationships, as well as strategic military ties, placed a growing national focus on Asian countries. By 1981, the trans-Pacific trade volume exceeded the volume across the Atlantic for the first time in the over 200 years of the nation's history, further emphasizing the public attention on the Pacific Rim. Taking place in the context of a global change in economic relationship, while the United States, especially in key, traditional industry sectors were in a period of recession, high inflation and high unemployment, the agitation from international trade conflicts would touch the lives of Americans of Asian ancestry.

## Resurgence of violence

Incidents of racial violence and the ascension of the occurrences of racially motivated acts against a particular population are difficult to identify and categorize. The partial inventory of incidents that are provided in this report, however, does indicate that there is both an environment for and evidence that there is a substantial increase in acts of racial violence directed at persons of Asian ancestry. [Appendix Incident/Events] The information gathered in this report is largely from media reporting, which tends to identify the most exaggerated crimes. Underlying the "news worthy" reporting are incidents of lesser aggravation which are not reported. In addition, there ought to be recognition that Asian people, in particular new immigrants, would have both psychological and cultural barriers that would result in an underreporting of incidents.

It is significant that major newspapers such as the New York Times, Wall Street Journal, Boston Globe, Washington Post, San Jose Mercury, San Francisco Examiner and the Los Angeles Times have had major stories on the rise of anti-Asian violence, demonstrating that the quantity and nature of incidents are such that there is penetration of coverage by mainstream media. Hearings by various public bodies on the subject of Anti-Asian violence in the past two years is yet another indicator that the extent of the discrimination and violence has developed to a level where public attention is called to the problem. Especially on the West Coast, where there is a concentration of population, Human Relations bodies for municipalities such as Los Angeles, Sacramento, Santa Clara County and San Diego have been investigating the problem. On a statewide level, the Attorney General of the State of California has formed a Commission on Ethnic and Religious Violence to investigate the phenomenon. The United States Commission on Civil Rights had indicated that it will release a study on anti-Asian violence in September of 1985.

At a community level, institutions in the Asian American community have noted their perception in the rise of anti-Asian activities. The Japanese American Citizens League, composed of 114 chapters nationwide, focused a major workshop at their biennial National Convention on this subject. The Organization of Chinese Americans, recently issued a report expressing their concern with the same subject. In California, several other organizations have developed in response to the growing incidence of violence. Religious groups such as the American Friends Service Committee and the Presbyterian Church have held conferences on this subject during 1984.

The ethnic community press carries a significant increase in the number of stories on the rise of anti-Asian violence. The accounts in the vernaculars are not ethnic specific, but are Pan Asian in their coverage, reflecting the assumption that the general public carries a conglomerate view of Asian Americans as well as documentation in the increase in negative sentiment. The increase in coverage to trade conflict related stories follows the same kind of parallel.

## Asian Americans

In 1980, the United States Census identified 3.5 million people of Asian ancestry in the country, a 250% increase from the previous decade and a cumulative 700% increase from the Census, two decades prior. Asian Americans in 1985 are largely communities of newcomers. Aside from the Japanese American community, which is 72% American born and raised, all other Asian American communities are predominantly first generation Americans. [Appendix U.S. Foreign Born Population 1980]

While there are populations of persons of Asian ancestry in each of the 50 states, only seven have populations over 100,000. Half of the total Asian population in the United States resides in Hawaii or California. [Appendix Population of Asian/Pacific Island Persons By State] 35% of new Asian immigrants arriving on American shores declare an intention to reside in California.

Asian Americans are a diverse group. In cities on the West Coast such as Los Angeles, the designation of Asian American may include as many as 25 distinct ethnic and cultural groups. While the population is relatively small, even with the considerable immigration rate over the past two decades, Asian Americans represent the fastest growing population in the United States. [Appendix and Chart Immigration] Demographers project that by the year 2050, the Asian American population percentage in California will equal the current Hispanic percentage in the States.

The long term effect of instability in the Philippines, the future of Hong Kong, the status of Taiwan, the division of countries such as Korea and Vietnam and other multinational factors would indicate that this country can anticipate continued immigration from Pacific Rim nations in significant numbers in the future. With the birthrate in America at a 1.9 rate, per woman, the nation will require the infusion of immigration to maintain a vigorous and growing society. Both demand and supply factors in the future would indicate that a continuation of this trend would continue. In this context, the ascension of bigotry and racial violence is a matter of great concern not only to Asian Americans, but to the nation as a whole.

### Immigrant community:

Three of every five Asian Americans are foreign born. Within this population there is a disproportionate number of new immigrants among those listed as victims of racially motivated crimes, compared to American born Asians. The particular pattern of victimization of new immigrants may be explained by the unique constellation of factors that surround their particular circumstances:

- 1) Operational familiarity with the various customs, norms, and values of America is acquired by experience over an extended period of time. The newcomer is less defended, less able to recognize an emerging conflict situation and, consequently, often lacks the facility to identify and escape a situation until it has escalated.

- 2) New immigrants are very often situated in higher risk situations because of economic condition. Dependence on public transportation, conditions of available and affordable housing and accessible employment patterns, in many cases, have a greater intrinsic exposure to occasions for conflict and violence.
- 3) The level of self assurance of newcomers is reduced in a new environment, which is often communicated in body language and assertiveness, providing a perception as vulnerable.
- 4) The newcomer community lacks visibility and is especially subject to myths, stereotypes and misperceptions
- 5) The patterns and activities of daily living of new immigrants are formulated in a different cultural and social setting, some of which may be or be perceived as inappropriate or even distasteful to many persons raised in an American cultural setting
- 6) The new immigrant communities represent a population, in many cases, that do not have a pre-existing community that buffers transition in the early arrival period.

Since 1975, 1.2 million of the 3.3 million total of the new arrivals in the United States have been of Asian ancestry. 90% of the Vietnamese and 97% of the Laotians in the United States arrived during the period of time. Better than 50% of the populations from Korea and Hong Kong residing in the United States entered during that period. A study by the Population Reference Bureau in Washington D.C. projected that the Asian population in the United States by the year 2080 could range between 9.7% and 14.4%. [Appendix Immigration]

### Impact of the Economic and Political Environment

The global economic restructuring, notable in the rise of Pacific Rim economies, coincided with a period of economic downturn in the United States. Particularly impacted were traditional smokestack industries. Both business and labor focused on foreign competition as explanation for the ills of American industry. With unemployment at very high levels, the presence of visible new immigrant populations, provided simplistic scapegoats in the labor market. The work ethic that powered the new immigrant population agitated competitors in the workplace.

Anti-Asian sentiment has its contemporary roots in a diverse milieu. Congressman Lyle Williams of Ohio was quoted, "Johnny Washbucket doesn't want to hear about not hurting Japanese sensibilities. I'm careful not to talk about imports, not specific nations, but everyone knows the names on the car grilles and where they come from. We don't feel sorry for the Japanese. *The racial remarks bother me, but they're inevitable.*" Bumper stickers saying, "I'd rather eat worms than ride a Jap bike." contribute to the hostile environment. Referring to the racist demagoguery by some Americans on the trade issue, the President's Special Trade Representative, William E. Brock stated, "...the line has been crossed." Congressman John D. Dingell referred to Japanese workers as "those little yellow people" in a closed House Hearing. Bennett Ridwell former President of the Hertz

Corporation and now with Chrysler Motors once suggested that the best way to handle the trade imbalance would be to charter the Enola Gay, the B-29 that dropped the first atomic bomb on the cities of Hiroshima and Nagasaki during World War II.

The animosity and antagonism that is expressed by many of our political, business and labor leaders is directed against foreign nations. The effect of these representations to the public inflames hatreds that become directed at Asian Americans. Actor Robert Ito is quoted saying, "You learn that you're always seen as Japanese, or Chinese, or Vietnamese, or Thai, or Cambodian, when it comes down to it." Similarly, Congress Robert Y. Matsui of Sacramento, a third generation American of Japanese ancestry, has said, "I've never been to Japan. I can't speak Japanese. I'm American. Yet, we have to bend over backwards to show our loyalty to the U.S. compared to other ethnic groups." The September 20, 1985, edition of the Wall Street Journal carries an extensive story featuring a discussion with Congressmen Norman Y. Mineta and Robert T. Matsui, both Japanese Americans, exploring their personal observations and concerns of backlash upon their families because of a foreign trade conflict.

In several of the incidents listed, the victims were perceived as foreign nationals, when in fact, they were American citizens. Citizenship is not credited to people whose appearance, language or custom are different from the majority population. Very often, the victims were identified with the much publicized trade contention between the United States and Japan. Even in these instances, where the assailant held a particular animosity directed against, for example, the Japanese, as in the case of the Vincent Chin murder, an Asian American of a distinctly different ethnic background fell victim. Thus, although a particular ethnic community may have a particular focus at a given point in time, all persons of Asian ancestry are potential victims of a racially motivated act because assailants do not have the ability, nor the interest to sort out such differences.

## Media

A study by the University of Pennsylvania's Annenberg School of communication in 1979 showed that only 2.5% of the characters on prime time television in the period between 1970 and 1976 were Asian. In the last year of that study, only 0.6% of the prime time major characters were Asian. The absence of images is, in general, a factor in the perception of Asian Americans. What tends to occur is a constant reiteration of certain caricaturizations, rather than a broad continuum of characterizations that would be more likely with increased visibility. Too often, the caricaturizations are negative. In 1984, the release of several films with Asian characters continued the negative portrayals of Asians. "Indiana Jones and the Temple of Doom," "Revenge of the Nerds," "Sixteen Candles," and "Gremlins" were pointed out by the National Asian American Telecommunications Association as significant offenders. The October 14,



minorities in general with regard to participation in the television industry both on and off camera and the consequent results. More recently, in 1985, the public outrage at Michael Cimino's film, "Year of the Dragon," reinforced existing concerns about the negative portrayal of Asian Americans.

Perhaps, more important in its impact than programming, is commercial advertising. Here the attention and focus on foreign competitors by domestic industry, too often approaches a threshold which is aimed at racial rather than product comparison, albeit in a subtle manner. While few individual advertisements would be identified as wholly negative, the accumulation of significant industry sectors adopting this tact is the deprecation of persons of Asian ancestry. The fact that the competition is Japanese is emphasized over other features, such as quality, utility, cost, or service. The message to the consumer over hours of television, newspaper and magazine viewing is clearly on race.

At a rudimentary level, the appearance of bumperstickers with notations such as, "Forget Pearl Harbor, Remember Detroit," or "I'd rather eat worms than ride a Jap bike" reflect the end sentiment in a more direct manner. The relationship between the evening news portrait of autoworkers smashing a Japanese car with a sledgehammer to the experience of a Japanese American shot at while driving in a Japanese made car or the bludgeon murder of Vincent Chin becomes clearer.

#### Recommendations:

1. Formation of a Statewide Commission on Asian Americans to provide ongoing oversight and recommendation of the dynamic environment and needs within that population.
2. Establish a statewide system of collecting data on acts of racial, ethnic or religious violence.
  - a) Supporting passage of the Hate Crimes Victims Act in the Congress.
3. Funding newcomer transitional training services in ethnic community social service centers.

## Incidents/Events:

### 1981

- March Calif. Monterey Park Progress arsoned. KKK claims responsibility. Newspaper had initiated a Chinese language section.
- April Texas Arsonists burn two Vietnamese owned boats.
- Calif Garden Grove City Council discusses motion to reject business license applications from Asians. A separate resolution is introduced to prohibit the use of foreign language business signs.
- Nov Calif Chinese American residence arsoned by persons claiming American Nazi Party membership.
- Dec Calif Alhambra KKK sends letter to Monterey Park Progress about "All those damn chinks."
- Calif Chinese American theaters in San Gabriel, Monterey Park and Alhambra vandalized. The KKK claims responsibility.
- AZ In Tucson, the Chinese Community offers \$10,000 to anyone for information leading to the arrest and conviction for the murder of Julie Wong, a small store owner who was killed that month.

### 1982

- April Calif Sacramento radio station, KFBK, news story about a World War II straggler refers to the individual as a **Jap** soldier.
- June Michigan Two unemployed autoworkers bludgeon to death a 27 year old Chinese American, Vincent Chin. They transfer their anger aimed at Japanese automobile imports to the young man.
- Oct No. Car. Gonzalie Rivers, Director of North Carolina Vehicle Registration Section recalls vehicle license plates that are personalized utilizing the epithet, **Jap**.
- Nov Michigan Detroit UAW demonstration in which worker destroy a Japanese import automobile. CBS Evening News carries an interview with worker making the statement, "We don't need these **Jap** cars in this country."

### 1983

- Jan. Calif A Chinese Church in Hacienda Heights is defaced.
- Feb. Calif Nai-Yan Li run over by automobile in Davis Calif. White Power leaflets are distributed in the San Francisco Richmond District, attacking the increase in Asian population.
- Texas Chansopheah Nhim, a 10 year Cambodian is shot by a sniper.
- Calif A cross burning on the lawn of a Filipino residence in Fremont takes place.
- March Calif Gardena Buddhist Church is arsoned for the second time.

May	Calif.	Trac Thi Vu, a Vietnamese woman, was shot through a kitchen window and killed by an unknown assailant.
Summer	Calif.	The Los Angeles <u>Sentinel</u> runs a series on the "Asian Problem "
	Calif.	71 Japanese tombstones are vandalized in Fresno.
July	Texas	An Pech, a Cambodian immigrant, living in Dallas is murdered, beaten to death with a baseball bat, in a racially tense environment.
	Mass	An Mai, an Indochinese immigrant, is murdered in racially tense Boston neighborhood.
	Illinois	The Illinois Consultation on Ethnicity in Education convenes a press conference in Chicago deploring the growing incidence of racial violence directed at Asians.
	Calif.	An elderly Issei (first generation Japanese American) woman is set on fire by neighborhood children in San Mateo
		At the opening of the General Motors plant in Fremont, a man brandishing a switchblade was quoted, "You're going back to Japan where you belong." At the same ceremony, a General Motors official compliments Congress Norman Y. Mineta, a 5 term Member of Congress, former Mayor of the City of San Jose, on his ability to speak English.
	Wash. D.C.	Senator Reagle making reference to a possible end of Japanese automobile import quotas refers to it as "another Pearl Harbor."
August	Calif.	Moss Landing on the Monterey Peninsula is the site of an attack against Vietnamese fishermen in a racially motivated incident
	Mass.	Boston Police Department reports 16 racial incidents during year to date, up 4 from the previous year
Sept.	Iowa	Thong Soukaseume, a Laotian immigrant is assaulted by a man yelling, "Remember Pearl Harbor." and "Go back to Japan, you kamikaze pilot." Incident takes place in Fort Dodge.
	Illinois	Shun-Quan is shot to death in Chicago. Motive unknown
	Calif.	San Francisco. Murder trial for the killing of Paul Wu results in an "involuntary manslaughter" verdict
Oct.	Media	<u>Oui Magazine</u> reprints a comic strip "How to spot a Jap."
<b>1984</b>		
Jan.	Calif.	Los Angeles County Commission on Human Relations holds hearings on the rise of anti-Asian violence and issues a report to the County Board of Supervisors.
Feb.	New York	Ly Yung Cheung, 19, is pushed under an oncoming subway train. The assailant is hear to say "We're even." The murder defense that is used contends that the killer had a fear of Asians
	Calif.	The Santa Clara County Commission on Human Relations holds hearings on anti-Asian violence.

1985

- Jan. Calif. The New York Times article begins a three part series on crime among Asians noting the Yakuza, a term which is applied to Japanese criminal organizations.
- Mich. Grand Ledge Officials claim that an attack on a Chinese refugee from Vietnam and his American-born wife was an isolated incident. Others in this community claim there have been quite a few and that Asians are harassed. The ACLU and Asian American organizations have offered their support. The four men who attacked Kiet Tien and his American born wife are charged with the breaking and entering with the intent to commit murder. Police say the incident was racially motivated.
- Calif. A Filipino American is pressing a discrimination complaint against former Olympic swimming coach, whom repeatedly called him a "Yellow Jap." The coach denies the charges and denies the claim.
- Wash. D.C. Congressman Mario Biaggi of NY introduces a bill stipulating that the FCC monitor the complaints of offensive ethnic stereotypes in the media and review them annually.
- Hi. Federal Immigration Inspectors at the Honolulu Airport on special alert of Japanese gangsters, note a curious similarity last Spring among some of the hundreds of tourists arriving from Japan. A little finger has been partly amputated.
- Calif. James Pierman, 18, is sentenced to spend six years in the California Youth Authority for the killing of Davis HS student, Thong Hy Huynh. The Coalition of Asians for Equal Rights believes that the sentence is too short. The District Attorney on the case noted that Pierman should serve 15 years to life and sought a second-degree murder conviction during the trial.
- Wash. D.C. Senator Walter Yarbrough of the Idaho State Legislature was quoted in a State Senate Committee meeting on the promotion of Idaho Potatoes in Japan, referred to the Japanese as "slant eyes." Yarbrough claims, "I didn't mean it as a degrading term. All the Japanese are my good friends."
- Colo. The decomposed body of a Japanese American woman was found in Clear Creek. The woman, aged 52, had been missing since December 7th. Investigators have no motive.
- Il. A series of Hyster advertisement depicting a kabuki actor, a sumo wrestler and a samurai warrior appear nationally.
- UK Prime Minister Margaret Thatcher, while discussing Great Britain's economic policies on local television, stated, "We are competing with highly efficient people, with the Germans and the Japs, and you've got to run jolly hard to keep going."
- N.C. 8 year old Chinese orphan girl found hung from tree in Chapel Hill.
- Feb. Calif. (see Jan. '85) The former Olympic swim coach who denied calling a Filipino American a "yellow Jap," now admits he did, but was not motivated by racism. Hearings have recently begun and reveal similar conduct with Blacks and Jews.

Calif.	California State Assemblyman Phillip Isenberg introduces a bill to repeal a discriminatory section of the California Government Code, which was used during WWII to fire state employees of Japanese Ancestry.
WDC	Congressman Norman Mineta (D-CA) testifies before a House Foreign Affairs Subcommittee on the Henry Liu Case and calls on the Federal Government to enforce the rights of Asian Americans. Congressman Mineta also has written a letter to the Honorable William French Smith, Attorney General, requesting a review of the case.
March	Calif. Two Japanese American employees of the Health Services Department of California file administrative proceedings with the Fair Employment and Housing Department, claiming Asian Americans are repeatedly passed over for promotions due to racial discrimination
Wash. D.C.	Congressman Robert Matsui (D-CA) describes a speech by Lee Iacocca, Chrysler Corporate Chairman to House Democrats as, 'a very ugly speech.' Iacocca was quoted as saying, "The Japanese are coming in. While we're trying to deal with things in the front yard, they're in the back yard, taking over the country. He was reportedly reacting to the President's decision to lift Japanese auto import quotas.
Il.	A Detroit television station has canceled segments of a program which presented a character- "Charlie Rum"-a blond Caucasian who each week, dyed his hair black, put on a Fu Manchu mustache and painted his eyelids to make them appear slanted. Congressman Matsui commented, "the show contained every stereotype in the book."
Md	Harassment has forced a Koren Buddhist Church congregation to leave their temple in Howard County to Baltimore. The temple in Columbia, had been subject to numerous acts of vandalization
April	Wash. D.C. Senator Paul Trible (R-VA.) makes statement, "Asians have no value for life."
May	Mass. Beating of Long Guang Huang by a Boston Police Detective seeking a Chinese speaking victim protested by local Asian community. Police officer is found guilty of misconduct in September.
Mass.	Four Cambodian youths are verbally and physically assaulted in Boston.
Mass.	Four men break into the Bostons apartment of Hung Hua and beat him. He chases the intruders outside where he is beaten by a crowd that gathers. Two other ethnic Chinese from Vietnam, Hung Tran and Chuong Chung were also beaten.
Colo.	State Senator Ray Powers opposes a Japanese American firm getting a state contract because, "The Japanese bombed Pearl Harbor."
NY	<u>New York Times</u> carried article on informal quotas on Asian American admissions to Ivy League Colleges.
June	Calif. Asian American Task Force releases report charging that drop in Asian enrollment at University of California was based on

systematic discrimination.

- July      Wash. D.C.      House of Representatives passes HR 1171 "Hate Crimes" Statistics Act.
- Calif.      An Oakland based task force, including local legislators is formed responding to a growing tend toward anti-Asian violence. They cit three recent shootings and a beating in that as cause for their concern.
- N.Y.      New York Times article by Theodore H. White regarding trade conflict, "The Danger From Japan," characterizes trade issues in war analogies.
- Aug.      Mass.      Two Cambodians attacked by gang of whites in Boston. One is killed.
- N.Y.      New York Times article on "Violent Incidents Against Asian Americans."
- Calif.      MGM agrees to disclaimer on "Year of Dragon" film, responding to national protests from Asian American community.
- Calif      San Jose Mercury article, "Anti-Asian Bias grows 40 years After the War" recounts growing trend toward discrimination and violence.
- Sept      Penn.      Attacks on Hmong reported in Black sections of Philadelphia
- Calif.      California Assembly debate concludes with racially charged chanting by Assembly members during discussion on a bill to support a National Japanese American museum.
- Mass.      State Attorney General files complaint charging juvenile with violations of the state's civil rights law for attacking Vietnamese in Dorechester on two occasions because of their race or national origin.
- Media      Wall Street Journal article regarding discrimination against Asian Americans in management.
- Media      Wall Street Journal article regarding backlash from trade conflict with Japanese focused on two Japanese Americans who are Members of Congress
- Calif      Vietnamese fishing boat off the Marin County coast is fired upon with automatic weapons.

**CENSUS BUREAU REPORT  
CONTRIBUTIONS TO U.S. FOREIGN-BORN TOTALS**

<b><u>ASIAN NATIONS</u></b>	<b><u>FOREIGN-BORN TOTAL IN THE U.S.</u></b>	<b><u>ARRIVED BET'N 1975 - 1980</u></b>
PHILIPPINES	501,440	34.4%
KOREA	289,885	52.3
CHINA	286,120	27.2
VIETNAM	231,120	90.5
JAPAN	221,794	31.6
HONG KONG	80,380	34.9
TAIWAN	75,353	54.6
LAOS	54,881	97.2
THAILAND	54,803	46.3

Source: Bureau of the Census, October 1984  
10/85 LRS

	Calif.	The Commission on Racial, Ethnic, Religious and Minority Violence reports that bigotry and prejudice against Asians is increasing the state, targeted at "the growing Indochinese refugee population..."
Oct	Mich.	A display at Six Flags Autoworld in Flint, Michigan, has a bucktoothed caricature of an automobile dropping bombs (shaped like import automobiles on Detroit Asian American communities around the nation protest
	Wash.DC	Hearings on Asian gangs before Congressional Committee portray Asian youth as uncontrolled problem
	Calif	Asian American activists throughout the state express outrage and disappointment over the Oct. 1 voluntary manslaughter conviction of Japanese Pierman in connection with the stabbing death of Davis HS student, Thong Hy Huynh
	Calif	Gov. Deukmejian creates "The Office of Community Relations" and plans to appoint a representative from the Asian American Community to act as a liaison between the governor and the community
Nov	Mich	Wayne State University Law Student wins pumpkin carving contest with a depiction of the Vincent Chin slaying His work has "oriental features" and is bashed with a baseball bat 30-40 fellow students applauded the work.
	Calif	<u>Desert Exile</u> , a novel, written by Yoshiko Uchida, is an informative account of the experience of the WWII evacuation is published
	Calif	Police in Westminster continued their search for four Vietnamese youth believed responsible for the shooting of a 15 year old HS student The incident is believed racially motivated because of increased tensions at the school
June	Mich	A commentary for <u>The Time (Detroit)</u> notes the "Vincent Chin Case" and asks "Does 'Buy American' Buy Trouble?-Detroit Killing Shows That Boosterism Can Breed Racism "
	Penn	A Philadelphia Commission on Human Relation held the first of three hearing into violence against some of the city's 14,700 Asian residents.
	Il.	<u>Heritage</u> , a newsletter of the Illinois Consultation on Ethnicity in Education, depicts a Japanese American with his hand out reached to Uncle Sam who says "Heyyy...I <u>Admit</u> I broke it---Do I hafta Pay for it, too!!!"
	Mich.	The Wayne State University law student (see Nov. '84), who won a student pumpkin caring contest apologizes publicly, "I did something in poor taste, and I'm sorry."
Dec	Il.	For the second year, a Chicago Chevrolet Car dealer runs an advertisement depicting the smoking ruins of sunken US battleships and Japanese bombers The ad says, "In remembrance of Pearl Harbor, we are having a gigantic sale on American cars, built in America, by Americans "



March	Calif.	Thong Hy Hyung, a Vietnamese high school student, is stabbed and killed by another student, culminating a series of racial incidents in Davis, California
April	Calif	Tseih-Tsai Luo, a graduate student at the University of California at Davis is murder in an unexplained killing
-- April	Media	<u>U.S. News &amp; World Report</u> cover story features "Asian Americans Are They Making The Grade?" which notes the recent achievements of Asian Americans
May	Calif	The City of Sacramento Human Relations Commission holds day long hearings on the subject of anti-Asian violence. Law Enforcement testimony indicates that 25/60 racial crimes in 1982 were directed at Indochinese. In 1983, the total and ratio increased to 35 of 80. In the first quarter of 1984 11 of 34 incidents were directed against the new immigrant community
	Calif	California Attorney General, John K. Van de Kamp, announces the creation of a Commission on Racial, Religious and Ethnic Violence
	Calif	Spray painting of Korean operated stores with the message, "Nips go home"
	Media	<u>National Review</u> cover story on affirmative action identifies Chinese as "Chinks"
July	Calif	"Death to Gooks" spray painted over memorial marker for Thong Hy Hyung, who was murder by a fellow student in a racial incident
	Wash D.C	United States Commission on Civil Rights initiates a study of racial violence against Asian and Pacific Islanders. Study has a September, 1985, release date planned
	Calif	<u>San Francisco Examiner</u> article notes that Asians account for only 1.5% of the American population, yet have a high percentage in higher education institutions
Aug	Calif.	China Camp, a historic site for early Chinese settlers, is vandalized.
	Calif	"Chinks and Jews suck" graffiti in the Richmond District of San Francisco is found
	Calif	Olympic gold medalist, Randy Lewis, interviewed by ABC Television after his medal winning performance in the wrestling event at the Los Angeles Olympiad comments about his opponent, "I knew that Jap would be tough."
	HI	At the 28th Biennial National JACL Convention, U.S. Senator Spark Matsunaga notes that "there is a psychological wound borne by those of us of Japanese Ancestry that has never fully healed since its infliction by the wartime evacuation under the infamous Executive Order 9066"
	HI	The United States-Japan Advisory Commission meets in Maui, HI to prepare its final report to President Reagan and Prime Minister Nakasone.



# THE AMERICAN JEWISH COMMITTEE

SAN FRANCISCO BAY AREA CHAPTER • 121 Steuart Street, Suite 405, San Francisco, CA 94105 • (415) 777-3820

Testimony of Robert D. Links,  
Chair of The American Jewish Committee's Asian-Jewish Task Force,  
Presented to the California Attorney General's  
Advisory Commission on Racial, Ethnic,  
Religious and Minority Violence

October 7, 1985

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Religious and Minority Violence

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The American Jewish Committee is this nation's pioneer human rights organization. Ever since its founding in 1906, The American Jewish Committee has been dedicated to the defense of the civil rights and religious liberties of all Americans. The American Jewish Committee today has a membership of 50,000 families and we are proud to have the Honorable Morris Abnam, Chair of the United States Civil Rights Commission and Arthur J. Goldberg, former Justice of the United States Supreme Court as active leaders and past national presidents.

I have been active with The American Jewish Committee for the last seven years and currently serve as the Chairman of the San Francisco Bay Area Chapter's Asian-Jewish Task Force, an arm of our organization which was established to provide a bridge between the Asian and Jewish communities and, in particular, to vigorously respond to the wave of overt, and sometimes violent, anti-Asian prejudice that has surfaced in the past 18 months. Earlier this year, our Task Force was instrumental in collating and monitoring information about specific incidents and presenting that evidence to the United States Civil Rights Commission. Our efforts, and those of our colleagues in the civil rights community, helped bring about a decision of the Commission to conduct national hearings dealing with the problem of anti-Asian prejudice.

With that brief introduction, let me thank you for inviting The American Jewish Committee to present testimony on the issue of remedial legislation in the "hate crime" area. We strongly support the work you are doing and we urge you to take all available steps to strengthen the Ralph Civil Rights Act (Civil Code, Section 51.7).

I bring before you three viewpoints. The first is an institutional one, and I have already voiced it in general terms on behalf of The American Jewish Committee. A second viewpoint is that of a lawyer, which I am, and more specifically, a litigator who has spent 11 years litigating civil rights and constitutional law cases, among others. The third viewpoint is that of a concerned citizen who believes in the words of Justice Louis Brandeis, who said almost 60 years ago that government's greatest function is to act as teacher -- to teach us all by way of its example. If our government fails to uphold the law, we become a lawless people. And if government exercises vision and leadership, we can become a better and more just society. It is for this reason that it is so very important for you, as an advisory commission, to recommend the strengthening of this most vital statute. We must demonstrate to the public our collective will -- that our government will not tolerate violence, threats or intimidation that is motivated by racial, ethnic or religious hatred.

I think the Ralph Civil Rights Act needs to be strengthened in several specific ways. First of all, and to answer one of your written questions directly, it is important for the statute to spell out in clear terms which governmental department has enforcement responsibility. All too often, a citizen calls upon a public official for service, only to be told -- often times in good faith -- that "it's not my job". We need to fix the responsibility for enforcement so it cannot be avoided or evaded. We also need to appropriate the resources so that responsible officials will have the capacity to act, in addition to the duty to act.

Let me now take a moment to list some of the specific provisions that should be added to the statute. I will give a brief explanation of the reasons why each provision is needed.

Attorney Fees. When I reviewed the statute, I was amazed to find that it did not contain a standard "attorney fee" clause. Such clauses can be found in almost every significant civil rights statute. An attorney fee clause is important and necessary for the simple reason that we have had to rely on the private bar to enforce these rights. If we are going to take that approach, we must give lawyers an incentive to take these cases. Often this sort of litigation is difficult, time consuming and emotional. This reality, coupled with the added problem that victims of hate crimes often cannot afford the out-of-pocket cost of an attorney, means that we may have created a cause of action that sits unused because it is not economical to pursue the litigation. The simple cure is to add a clause that awards attorney fees to a successful party.

Creation of a Fund to pay Attorney Fees. Creating a right to attorney fees means little if the fees cannot be collected. In many cases, the defendant is judgment proof. Moreover, even if the defendant has assets, his property may be shielded from execution by various exemption statutes such as those found in the Code of Civil Procedure. Even if the defendant has an insurance policy, there often is no coverage for this type of case. Because of this situation, we should consider creating a state fund to pay attorney fees in these cases. In this way, a victim can litigate knowing that his lawyer can get paid if he wins.

Barring counterclaims until the case in chief is resolved. Another problem that many a plaintiff faces in these cases is that the defendant counterclaims, often for defamation or something like that. In order to streamline the process and avoid the chilling effect of such counterclaims, we should consider a procedure whereby the civil rights part of the case will be litigated first, with the counterclaims (if any) being held in abeyance. In this way, the plaintiff will have his or her day in court, while the defendant's rights are not seriously prejudiced.

Calendar priority. These cases should be granted preference so they come to trial before other cases on the court's docket.

Streamlined Injunction Procedure. The Ralph Civil Rights Act should be coordinated with the simplified "harrassment" injunction procedures set forth in Section 527.6 of the Code of Civil Procedure. Section 527.6 sets forth a quick and efficient remedy for persons who claim to be suffering from "harrassment" (as defined by statute). There are specific Judicial Council forms that are set up to assist the plaintiff and make it possible for an injured person to even seek relief without an attorney. I urge you to study these provisions and to consider incorporating them into the Ralph Civil Rights Act, or vice versa.

Criminal Penalties Should be Enacted, Including a Provision for Enhanced Sentences. There is no question in my mind that the activities that form the basis for civil liability under the Ralph Civil Rights Act should be the basis for criminal liability as well. There also should be a provision that requires enhanced sentences for persons who are convicted of so-called "hate" crimes. This is the most effective tool for government to send out the message that this sort of activity has no place in our society. Criminal penalties are needed to drive home the message that the hate mongers who seek to intimidate and persecute minority groups will be driven out of existence.

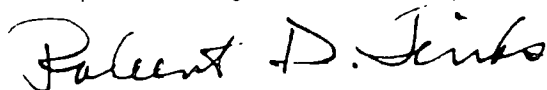
Enactment of a State Civil Rights Criminal Statute to Parallel the Federal Statute (18 U.S.C. Section 241, et seq). One thing we lack in California is a state civil rights statute that provides criminal liability that parallels the provisions of Section 241, et seq, of the United States Code. While this request may seem to duplicate the one I stated a moment ago, it raises a different point. Aside from the general proposition of establishing criminal penalties, there is a specific need to have a state statute that tracks its federal counterpart. The reason is to ensure that Federal prosecutors can back up state prosecutors and provide a double-barrelled attack in these cases. Under Federal Civil Rights law, the United States Attorney often files a parallel proceeding to buttress a state prosecution. They have such laws in Massachusetts and in Maryland, but we do not yet have such a law in California. I think the time has come.

Establishment of a Statewide "Clearinghouse" to Register Persons Convicted of Hate Crimes. Once a person is convicted of a hate crime, we should require that he be registered in Sacramento. We should also require the disclosure of such a conviction in connection with any application for employment. If we publicize this procedure, it will enable public interest groups to put pressure on employers not to hire persons who have committed these despicable acts. Moreover, the impact a convicted hate-monger can have in any workforce dictates the importance of requiring disclosure of this information.

If you have any questions, I would be pleased to entertain them.

Thank you again for giving me, on behalf of The American Jewish Committee, the opportunity to appear before you.

Respectfully submitted,



Robert D. Links  
Chair, Asian-Jewish Task Force  
American Jewish Committee  
San Francisco Bay Area Chapter

Comments by Lillian Galedo  
Executive Director

FILIPINOS FOR AFFIRMATIVE ACTION  
Background

Community group perspective

- not a legal comment
- but one who is looking to do education work & organize community to defend itself against racial violence

INCREASING ANTI-IMMIGRANT SENTIMENT:

- increasing anti-Asian violence particularly of immigrants
- RANGES FROM NAKED VIOLENCE TO LEGISLATIVE AND ADMINISTRATIVE ATTACKS ON THE RIGHTS OF IMMIGRANTS TO INSINUATIONS THAT ASIANS IN SAN FRANCISCO ARE "DISPLACING" REAL SAN FRANCISCANS
- assisted by negative press and broadcast media coverage, as well as racist movies like "Year of the Dragon"

I will use as an example one case that we're familiar with; but please be clear that this is probably at work in many other incidents of racial violence.

The case that we have some knowledge of is that of cross-burnings that occurred on the front lawn of a Filipino immigrant family on two consecutive nights in San Leandro, Ca. The family was just moving into the neighborhood on December 11 & 12, 1982.

Their first "terrified" reaction was to move away, to the home of a relative nearby, after the second incident. But after some show of community support for their situation, the family decided to stay.

Two young men were arrested and charged with misdemeanors for the crossburnings ("pranks"). They subsequently pled guilty and were sentenced to 30 days in county jail, community service, and fined.

San Leandro is a small town, undergoing significant socio-economic changes. There have been many layoffs, and plant closures that have negatively affected long-time residents of the city. At the same time the ethnic composition of the city is in transition from a city that was formerly predominantly white to a much more mixed situation. The seeds for racial violence.

Besides reporting the incident to the police, the family decided not to file any further complaints. What I wanted to deal with in this presentation is why we think that was the case. Hope this has relevance to your goals.

Basically we feel that the reasons why many immigrants don't press for action, and in some cases do not even report other less dramatic incidents of racial violence is because: 1. immigrants

do not know generally what rights they have; 2. the system is not accessible in terms of language or cultural sensitivity; 3. there is little commitment to investigate.

IMMIGRANTS DO NOT KNOW WHAT THEIR RIGHTS ARE:

- no public education mechanism exists to make newly arrived immigrants aware that they can seek legal relief for such violations of their rights; applies to other community groups as well
- in this case the family only knew to report this to the police, they had no knowledge about what to expect from the police or any other institution connected with matters of this sort
- they were understandably frightened and did not want to aggravate their vulnerability

THE SYSTEM IS NOT ACCESSIBLE

- the state could take some responsibility to hire bilingual personnel who could be brought in to educate victims of racial violence about their rights, in their own language
- it will also afford the victim someone to talk to in their language and give them the opportunity to explain the incident in their own words; confidence in the cultural sensitivity of the person doing the follow-up also helps to encourage the victim to seek relief
- the victim's natural resources is to recoil, and it is necessary to have an informed person who can draw them out

THERE IS LITTLE COMMITMENT TO INTERVENTION & INVESTIGATION

- in this small town situation, it was not in the interest of the city to do much of an investigation, nor to draw any conclusions of racial motivation
- first of all, the investigation should be done by a representative of the State of California, not solely by local enforcement authorities.
- a body that is not as affected by the so-called "negative image" that publicity around these kinds of incidents can create should be doing the investigation; a neutral body might be more inclined to press for tougher and more public response to this violence

- such a neutral person might be more vigilant in investigating the incident more thoroughly
- local authorities are more inclined to "clean-up" the mess and get it out of the public eye

FINALLY, THE LAW REQUIRES THAT THE VICTIM FILE A LAW SUIT IN ORDER TO SEEK RELIEF

- there should be a less complicated way to respond
  - this is a deterrant to immigrants who don't have the financial means, or knowledge of where to get representation
  - the likely hood of winning such a suit is slim
  - the amount of work is alot and can go on for a long time



PRESENTATION

by

JAMES P. McENTEE  
President  
California Association of  
Human Rights Organization

TO: ATTORNEY GENERAL'S COMMISSION  
ON  
"RACIAL, ETHNIC, RELIGIOUS AND MINORITY VIOLENCE"

ON  
"EFFECTIVENESS AND SUFFICIENCY OF EXISTING LEGISLATION  
RELATING TO VIOLENCE AND BIGOTRY"

GOOD AFTERNOON! My name is James P. McEntee Sr. I am the Director of the Human Relations Commission of Santa Clara County and my experience is primarily in Santa Clara County; however I am here today as the President of the California Association of Human Rights Organizations (CAHRO) and I am representing that organization.

About three weeks ago, I was at a meeting, involving Human Relations and Civil Rights Activists. These are people who are on the front lines working with people from all different ethnics, religious, and racial backgrounds. I asked them what do they think of the Ralph Act? How does it help you in the resolution of ethnic, and racial conflicts? Their responses were along this line. "What are you talking about, McEntee?" "What Act?" "I never heard of it." There were a few who had heard of this Ralph Act but knew very little about it, and did not consider it significant in combating violence. There were some who knew that the Department of Fair Employment and Housing had some responsibility for its enforcement, but had little confidence in its implementation or enforcement.

I also talked to some law enforcement personnel. They really had no knowledge of the Act and clearly did not see it as a significant factor in their day to day work. It is clear that at the present time the Ralph Act does not seem to be considered effective or significant legislation in the battle against racial, religious, ethnic, and minority violence in our community.

I feel that the work that is being done by the Attorney General's Office under SB 2080 is an important start; however I also feel that there are too many restrictions on what is reportable and what is not reportable. I feel that any action that has any implications or overtones of ethnic, religious, or minority motivation should be reported.

A few weeks ago, I was involved in mediating a situation between a Cambodian and Chicano youth in a low income, high crime apartment complex. It started out with a couple of Chicano youths trying to take away a bicycle from a Cambodian youth. A fight ensued that escalated very quickly and involved adults and youths; knives were used and four youths were injured. Police were involved but I wonder if this ever was reported. The motivation in this situation was definitely racial. There is also a problem in getting accurate information because the majority of the incidents of violence against members of racial, religious, ethnic, and minority groups are never reported to any official agency. They do not report them because of fear of retaliation from those who perpetrated this violence or because of lack of confidence in the police department or official agencies. I feel that 80% to 90% of these incidents are never officially reported. The only ones who know about these incidents are the victims and possibly community workers in these communities.

There is also a problem that the community in general and community agencies know nothing about this SB 2080 project. If they know nothing about the project and if they have information that should become part of this report they will not know how to do it. I would like to make some recommendations for your consideration.

1. I would recommend that the Attorney General's Office convene in the very near future, a meeting of Human Relations Commissions, special interest groups serving the special needs communities, and Law Enforcement Agencies to discuss and study the Ralph Act, and other legislations and also develop a method of greater cooperation among all the groups which have a special interest in this area. The California Association of Human Rights Organizations would be willing to assist the Attorney General's Office in planning and implementing such a meeting.

I would encourage some real outreach to the community through radio, and T.V. spots and especially through the newspapers explaining this concern and giving individuals an opportunity to phone in incidents to a centralized number with the understanding that their call will remain confidential. The ethnic and cultural radio and television stations should be used especially in this process.

Finally, are there other ways that we can look into other forms of violence perpetrated against persons who are members of racial, religious, ethnic, and minority communities. I am referring to the conditions many of groups have been forced into in our community. On August 25, 26, 27, 1985, there was a series of articles which appeared in the San Jose Mercury News about Carnelian Drive in San Jose.

It described in detail how South East Asian Refugees along with a number of other ethnic minorities had been forced to live in subhuman conditions, because it is all that is available to them. They are crowded three to four families in two bedroom apartments; they are paying exorbitant rents to unscrupulous landlords on streets where city building codes and standards are not enforced. This is duplicated in many different areas of San Jose and Santa Clara County and this same situation is duplicated throughout the State.

This is violence against these people and violence breeds violence. It breeds violence within their communities and it encourages dislike and eventually violence against these people by the established community.

Many different disciplines must work together if we are to put an end to violence in our communities, specifically if we are to stop violence against racial, religious, ethnic, and minority groups.

I can assure you that the Human Relations Commissions throughout the State and specifically the California Association of Human Rights Organizations stands ready to work hand in hand with you to implement a multifaceted approach to end violence so as to make our communities better and safer for everyone.

Thank you for allowing me to make this presentation to you today; I am willing to answer any questions that you might have.

# ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



John Van de Kamp  
Attorney General

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Diane Yu  
Oakland

Marty Mercado  
Coordinator  
(916) 324-7859

## PUBLIC HEARING ON EFFECTIVENESS AND SUFFICIENCY OF EXISTING LEGISLATION RELATING TO VIOLENCE AND BIGOTRY

1515 K Street  
Suite 371  
Sacramento, CA  
95814

October 7, 1985  
10:00 a.m. - 4:00 p.m.  
State Bar Building  
555 Franklin Street  
San Francisco

## APPEARANCE SCHEDULE

		<i>MSGR William BARRY</i>
	10:00	Opening Remarks - Diane C. Yu, Legislative Committee Chair
	10:05	Japanese American Citizens League - Ron Wakabayashi
	10:20	Forrest Fulton, S.F. Police Dept. Mental Health Unit
	10:35	<i>SGT. Daniel Ortega, San Jose Police Department</i> <i>W/ LT. WALT ADKINS</i>
	10:50	Asian Law Caucus - Michael Wong
	11:05	MALDEF representative - <i>SUSAN BROWN</i>
	11:20	<i>NO</i> <del>Samuel Jackson - Sacramento City Attorney</del>
	11:35	<i>NO</i> <del>Mission Community Legal Defense - Jose Aguilar</del> <i>DID NOT APPEAR</i>
	<i>11:40</i>	<i>CHIEU PHAM - ASIAN VIOLENCE COORDINATING COUNCIL (415) 839-4155</i>
	12:00	LUNCH BREAK
	1:30 pm	American Jewish Committee - S.F. Bay Area Chapter - Robert D. Links
	1:45	Filipinos for Affirmative Action - Lillian Galedo <i>OAKLAND</i>
	2:00	Calif. Association for the Physically Handicapped - Phil Nails
	2:15	<i>NO</i> <del>Union of Democratic Filipinos (KDP) - Remy Reyes</del> <i>DID NOT APPEAR</i>

(Continued on next page)

2:30 Calif. Assoc. of Human Rights Organizations (CAHRO) -  
James McEntee, Sr.  
*DR. MARIAN VIGILANTES*  
2:45 ~~Hilary~~ ~~Donnenfeld~~ - Regional Center of the East Bay  
*OAKLAND (415) 451-7232*  
3:00 Violence Against Asians Task Force - Frank Chong *(415) 444-2680*  
*OAKLAND*  
3:15 Legal Center for the Elderly and Disabled - Dario Diaz - *446-4851*  
*SACRAMENTO*  
*3:30* Asian American Bar Association/Vincent Chin  
Defense - Hoyt Zia *(408) 255-0900*

Others wishing to testify will be taken in order of sign-up. **Please sign in with secretary.**



Office of the Attorney General — John K. Van de Kamp

# News Advisory

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(916) 324-5439  
1515 K Street, Suite 511  
Sacramento, CA 95814

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(213) 736-2298  
3580 Wilshire Boulevard  
Los Angeles, CA 90010

October 3, 1985

SAN FRANCISCO — The Legislative Subcommittee of Attorney General John K. Van de Kamp's Commission on Racial, Ethnic, Religious and Minority Violence will hold a hearing on Monday, Oct. 7, 10 a.m.-4 p.m., at the State Bar Building, 555 Franklin Street.

The hearing is being held to evaluate the effectiveness and sufficiency of laws relating to violence and bigotry. Testimony will be presented by experts from various legal organizations, civic groups and law enforcement officials including the Asian Law Caucus, American Jewish Committee, Mission Community Legal Defense, California Association for the Physically Handicapped, and San Francisco Police Department. Attached is a list of those currently scheduled to testify.

The hearing is open to reporters and the public.

The Attorney General created the commission in 1984 to conduct a two-year investigation of incidents of violence based on discrimination against members of minority communities. The Legislative Subcommittee is chaired by commission member Diane C. Yu of the Asian American Bar Association.

For further information, contact Marty Mercado, chief, Office of Community and Consumer Affairs, Office of the Attorney General, 1515 K Street, Sacramento, (916)324-7859.

# # # # #

# ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



John Van de Kamp  
Attorney General

## COMMISSIONERS

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Leticia Quezada  
Los Angeles

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Fresno

Dr. Hazel Hawkins-Russell  
Riverside

John Saito  
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Diane Yu  
Oakland

Marty Mercado  
Coordinator  
(916) 324-7859

## **PUBLIC HEARING ON EFFECTIVENESS AND SUFFICIENCY OF EXISTING LEGISLATION RELATING TO VIOLENCE AND BIGOTRY**

1515 K Street  
Suite 371  
Sacramento, CA  
95814

**October 7, 1985  
10:00 a.m. - 4:00 p.m.  
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(Continued on next page)



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PRESENTATION

by

JAMES P. McENTEE  
President  
California Association of  
Human Rights Organization

TO: ATTORNEY GENERAL'S COMMISSION  
ON  
"RACIAL, ETHNIC, RELIGIOUS AND MINORITY VIOLENCE"

ON  
"EFFECTIVENESS AND SUFFICIENCY OF EXISTING LEGISLATION  
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There is also a problem that the community in general and community agencies know nothing about this SB 2080 project. . . If they know nothing about the project and if they have information that should become part of this report they will not know how to do it. I would like to make some recommendations for your consideration.

1. I would recommend that the Attorney General's Office convene in the very near future, a meeting of Human Relations Commissions, special interest groups serving the special needs communities, and Law Enforcement Agencies to discuss and study the Ralph Act, and other legislations and also develop a method of greater cooperation among all the groups which have a special interest in this area. The California Association of Human Rights Organizations would be willing to assist the Attorney General's Office in planning and implementing such a meeting.
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Thank you for allowing me to make this presentation to you today; I am willing to answer any questions that you might have.



## City of Fremont

Police Department  
39710 Civic Center Drive  
Fremont, California 94538

(415) 791-4444

September 30, 1985

Diane Yu, Chairperson  
Legislation Subcommittee  
Attorney General's Commission on Racial,  
Ethnic, Religious and Minority Violence  
1515 K Street, Suite 371  
Sacramento, CA 95814

Dear Ms. Yu:

I will be unable to attend the public hearing on October 7; however, I have gone over your questionnaire and can offer the following responses. I hope they will assist in your deliberations. My responses will correspond to the numbered questions in your questionnaire.

1. As I understand it, the act provides civil remedies and has no criminal penalties attached. I suspect that law enforcement agencies are unclear as to their responsibility. That could be corrected by making a law enforcement agency receiving a report of a violation responsible to forward such report to the Attorney General's office so that appropriate actions by that agency might commence.
2. The only suggestion I could make in this area is that perhaps when violations of the act occur there is a probability that there has also been a criminal violation and such acts may be handled through the regular criminal procedure.
3. As the act is currently constructed, I do not believe it would be appropriate to impose criminal sanctions. There are currently a number of crimes that are enforceable when overt violations of the act occur.
4. I am not sure the act can be strengthened.
5. I regret that I do not understand this question.
6. Generally, citizens have the ability to file such actions; however, it might be helpful if a citizen had the additional opportunity to seek assistance through the Attorney General's office in filing such actions. Were that to occur, I would also suggest that the Attorney General's office recover costs wherever awards for damages were made.

Attorney General's Commission on Racial,  
Ethnic, Religious and Minority Violence  
September 30, 1985  
Page two --

7. I believe the criminal laws are satisfactory. However, it might be useful to seek an enhancement section for sentencing where a committed crime had the intent of depriving the victim of any of the freedoms provided for by the act.
8. It would further the concept of the public's condemnation of such acts.
9. Denial of probation could well be considered for crimes motivated by the ideals addressed in the Ralph Act.
10. Possibly, but the criminal cases and prosecutions are rare. It might also encourage the federal government to defer prosecutions to the State which in other offenses, such as bank robbery, normally result in lighter sentencing at the State level. The difficulty is in proving a conspiracy beyond a reasonable doubt in criminal courts rather than a preponderance of evidence in a civil court. Obviously, the statutes as enacted for criminal violations must be specific and narrowly interpreted. The act is currently a statement of ideals or policy much too broad to withstand court challenges. The guidelines and definitions would create an additional burden in terms of police reporting. Agencies having computerized records systems would be faced with a significant financial impact in order to restructure reporting needs.

I hope the above opinions will be of some value.

Sincerely,

*R-Wasserman*  
ROBERT WASSERMAN  
CHIEF OF POLICE

RW:dr

TESTIMONY GIVEN OCTOBER 7, 1985 BEFORE THE ASIAN VIOLENCE COORDINATING COUNCIL

First of all, I would like to thank the Council members for giving me the opportunity to testify before you today. I am here to talk about the acts of violence which have been perpetrated against Vietnamese fishermen throughout the country. As you may know, the latest incident happened less than two weeks ago. Unprovoked, commercial salmon fishermen opened fire on a Vietnamese fishing boat off the coast of Bolinas. This incident is a part of a pattern of persecution which has been reoccurring since 1981, when two Vietnamese fishermen and one American were killed in Texas. In another attack Vietnamese boats were burned and sunk in Monterey, California in 1983. It is time now for us to look at this pattern of violence and deal with the problem before it escalates into large scale conflict.

Not only are these attacks part of a recent pattern of <sup>racial violence</sup> ~~racism~~ toward the newly-arrived Vietnamese, but they also fit into a larger pattern of <sup>racial</sup> ~~racism~~ violence directed at Asian American fishermen in this country. In 1906 the Monterey Chinatown was burned and the Chinese fishing industry destroyed. Before the second World War, 65% of the abalone fleet in the same area was Japanese, but because of their massive internment during the war, their fishing activities completely disappeared. Efforts to demolish the Japanese fleet began as early as 1910. The Vietnamese fishermen are determined to keep their fishing businesses and demand justice so that they will be able to pursue their livelihood peacefully.

We propose two courses of action to resolve these problems. Bilingual/bicultural personnel should be hired in the Coast Guard, Department of Fish and Game, and all other relevant local authorities. These personnel will act as a linguistic and cultural bridge between their agencies, the Vietnamese fishermen, and American fishermen. It is essential that there be a presence in these places to ensure that Vietnamese clearly understand fishing regulations as well as their rights as commercial fishermen. The fishermen can also bring concerns to the representatives so that they are resolved in a timely fashion.

We also propose the establishment of a task force consisting of members of all fishing associations as well as representatives from appropriate government agencies. This group will convene quarterly to solve problems as they arise, and intervention occurs before potentially dangerous situations explode into violent conflict.

Without these efforts more lives will be lost. These attacks <sup>represent</sup> ~~are~~ an extreme and advanced manifestation of <sup>violence</sup> ~~racism~~, and steps must be taken so that they do not reoccur. Communication has evidently broken down some time ago among Vietnamese fishermen, enforcement agencies, and American fishermen. By establishing channels of communication all parties involved will have a chance to talk and come to some mutual understanding. It is only through this deeper understanding that violence will be eradicated.

In view of the serious and pressing nature of the situation, we urge that the Council take immediate action. Once again, I would like to thank you all for your time and attention.

Respectfully submitted,

Chieu Pham,  
Executive Director

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# THE AMERICAN JEWISH COMMITTEE

SAN FRANCISCO BAY AREA CHAPTER • 121 Steuart Street, Suite 405, San Francisco, CA 94105 • (415) 777-3820

Testimony of Robert D. Links,  
Chair of The American Jewish Committee's Asian-Jewish Task Force,  
Presented to the California Attorney General's  
Advisory Commission on Racial, Ethnic,  
Religious and Minority Violence

*R. Links*

October 7, 1985

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The American Jewish Committee is this nation's pioneer human rights organization. Ever since its founding in 1906, The American Jewish Committee has been dedicated to the defense of the civil rights and religious liberties of all Americans. The American Jewish Committee today has a membership of 50,000 families and we are proud to have the Honorable Morris Abnam, Chair of the United States Civil Rights Commission and Arthur J. Goldberg, former Justice of the United States Supreme Court as active leaders and past national presidents.

I have been active with The American Jewish Committee for the last seven years and currently serve as the Chairman of the San Francisco Bay Area Chapter's Asian-Jewish Task Force, an arm of our organization which was established to provide a bridge between the Asian and Jewish communities and, in particular, to vigorously respond to the wave of overt, and sometimes violent, anti-Asian prejudice that has surfaced in the past 18 months. Earlier this year, our Task Force was instrumental in collating and monitoring information about specific incidents and presenting that evidence to the United States Civil Rights Commission. Our efforts, and those of our colleagues in the civil rights community, helped bring about a decision of the Commission to conduct national hearings dealing with the problem of anti-Asian prejudice.

With that brief introduction, let me thank you for inviting The American Jewish Committee to present testimony on the issue of remedial legislation in the "hate crime" area. We strongly support the work you are doing and we urge you to take all available steps to strengthen the Ralph Civil Rights Act (Civil Code, Section 51.7).

I bring before you three viewpoints. The first is an institutional one, and I have already voiced it in general terms on behalf of The American Jewish Committee. A second viewpoint is that of a lawyer, which I am, and more specifically, a litigator who has spent 11 years litigating civil rights and constitutional law cases, among others. The third viewpoint is that of a concerned citizen who believes in the words of Justice Louis Brandeis, who said almost 60 years ago that government's greatest function is to act as teacher -- to teach us all by way of its example. If our government fails to uphold the law, we become a lawless people. And if government exercises vision and leadership, we can become a better and more just society. It is for this reason that it is so very important for you, ~~as an~~ <sup>the</sup> ~~advisory~~ commission, to recommend the strengthening of this most vital statute. We must demonstrate to the public our collective will -- that our government will not tolerate violence, threats or intimidation that is motivated by racial, ethnic or religious hatred.

I think the Ralph Civil Rights Act needs to be strengthened in several specific ways. First of all, and to answer one of your written questions directly, it is important for the statute to spell out in clear terms which governmental department has enforcement responsibility. All too often, a citizen calls upon a public official for service, only to be told -- often times in good faith -- that "it's not my job". We need to fix the responsibility for enforcement so it cannot be avoided or evaded. We also need to appropriate the resources so that responsible officials will have the capacity to act, in addition to the duty to act.

Let me now take a moment to list some of the specific provisions that should be added to the statute. I will give a brief explanation of the reasons why each provision is needed.

Attorney Fees. When I reviewed the statute, I was amazed to find that it did not contain a standard "attorney fee" clause. Such clauses can be found in almost every significant civil rights statute. An attorney fee clause is important and necessary for the simple reason that we have had to rely on the private bar to enforce these rights. If we are going to take that approach, we must give lawyers an incentive to take these cases. Often this sort of litigation is difficult, time consuming and emotional. This reality, coupled with the added problem that victims of hate crimes often cannot afford the out-of-pocket cost of an attorney, means that we may have created a cause of action that sits unused because it is not economical to pursue the litigation. The simple cure is to add a clause that awards attorney fees to a successful party.

Creation of a Fund to pay Attorney Fees. Creating a right to attorney fees means little if the fees cannot be collected. In many cases, the defendant is judgment proof. Moreover, even if the defendant has assets, his property may be shielded from execution by various exemption statutes such as those found in the Code of Civil Procedure. Even if the defendant has an insurance policy, there often is no coverage for this type of case. Because of this situation, we should consider creating a state fund to pay attorney fees in these cases. In this way, a victim can litigate knowing that his lawyer can get paid if he wins.

Barring counterclaims until the case in chief is resolved. Another problem that many a plaintiff faces in these cases is that the defendant counterclaims, often for defamation or something like that. In order to streamline the process and avoid the chilling effect of such counterclaims, we should consider a procedure whereby the civil rights part of the case will be litigated first, with the counterclaims (if any) being held in abeyance. In this way, the plaintiff will have his or her day in court, while the defendant's rights are not seriously prejudiced.

Calendar priority. These cases should be granted preference so they come to trial before other cases on the court's docket.

Streamlined Injunction Procedure. The Ralph Civil Rights Act should be coordinated with the simplified "harrassment" injunction procedures set forth in Section 527.6 of the Code of Civil Procedure. Section 527.6 sets forth a quick and efficient remedy for persons who claim to be suffering from "harrassment" (as defined by statute). There are specific Judicial Council forms that are set up to assist the plaintiff and make it possible for an injured person to even seek relief without an attorney. I urge you to study these provisions and to consider incorporating them into the Ralph Civil Rights Act, or vice versa.

Criminal Penalties Should be Enacted, Including a Provision for Enhanced Sentences. There is no question in my mind that the activities that form the basis for civil liability under the Ralph Civil Rights Act should be the basis for criminal liability as well. There also should be a provision that requires enhanced sentences for persons who are convicted of so-called "hate" crimes. This is the most effective tool for government to send out the message that this sort of activity has no place in our society. Criminal penalties are needed to drive home the message that the hate mongers who seek to intimidate and persecute minority groups will be driven out of existence.

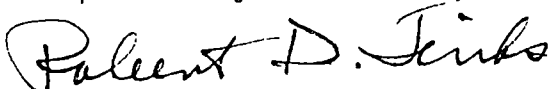
Enactment of a State Civil Rights Criminal Statute to Parallel the Federal Statute (18 U.S.C. Section 241, et seq). One thing we lack in California is a state civil rights statute that provides criminal liability that parallels the provisions of Section 241, et seq, of the United States Code. While this request may seem to duplicate the one I stated a moment ago, it raises a different point. Aside from the general proposition of establishing criminal penalties, there is a specific need to have a state statute that tracks its federal counterpart. The reason is to ensure that Federal prosecutors can back up state prosecutors and provide a double-barrelled attack in these cases. Under Federal Civil Rights law, the United States Attorney often files a parallel proceeding to buttress a state prosecution. They have such laws in Massachusetts and in Maryland, but we do not yet have such a law in California. I think the time has come.

Establishment of a Statewide "Clearinghouse" to Register Persons Convicted of Hate Crimes. Once a person is convicted of a hate crime, we should require that he be registered in Sacramento. We should also require the disclosure of such a conviction in connection with any application for employment. If we publicize this procedure, it will enable public interest groups to put pressure on employers not to hire persons who have committed these despicable acts. Moreover, the impact a convicted hate-monger can have in any workforce dictates the importance of requiring disclosure of this information.

If you have any questions, I would be pleased to entertain them.

Thank you again for giving me, on behalf of The American Jewish Committee, the opportunity to appear before you.

Respectfully submitted,



Robert D. Links  
Chair, Asian-Jewish Task Force  
American Jewish Committee  
San Francisco Bay Area Chapter